

To cite: DK Agaba 'Analysing the implementation of refugee laws and policies in relation to women and girls: A case of Kampala, Uganda' (2024) 24  
*African Human Rights Law Journal* 684-719  
<http://dx.doi.org/10.17159/1996-2096/2024/v24n2a12>

# Analysing the implementation of refugee laws and policies in relation to women and girls: A case of Kampala, Uganda

*Daphine K Agaba\**

Lecturer, School of Women and Gender Studies, Makerere University, Kampala, Uganda

<https://orcid.org/0000-0001-6249-2061>

**Summary:** *Significant numbers of refugee women and girls are increasingly migrating from one country to another in the Eastern African region, in this case, to Uganda. A series of factors prompt women and girls to migrate, among which are fleeing political and economic unrest; escaping sexual and gender-based violence in their families and communities; the search for better socio-economic opportunities, including better-paying employment; the hope of improving their quality of life; and access to education. On a positive note, by escaping their communities, women and girls are freed from restrictive and sometimes harmful gender norms, thus gaining the opportunity to enhance their autonomy, self-esteem and, ultimately, their social standing. Furthermore, by gaining access to employment and education, they are able to contribute to their families back home, thereby improving their decision-making power and authority in their families and communities. Conversely, refugee women and girls face a series of obstacles and difficulties, such as difficulties in accessing housing and basic infrastructure; negative changes in gender roles; challenges with accessing timely and quality health care, including sexual and reproductive health; failure to access employment/access to decent work and social protection; exclusion from*

\* PhD (Western Cape) MPhil (Pretoria); agabadaphine@gmail.com

*political participation; violence; security threats; and a lack of access to justice. Using a documentary review approach, the article interrogates the implementation of refugee laws and policies in relation to women and girls. The geographical scope is on refugees from Eastern African countries such as South Sudan, Ethiopia, Eritrea, the Democratic Republic of the Congo, Somalia, Burundi and Rwanda, into Kampala slums in Uganda.*

**Key words:** *refugees; laws/policies; regional migration; rights of women and girls; urban slums*

## 1 Introduction

Whether voluntary or forced, migration has profoundly shaped our world. It is estimated that 3 per cent of the world's population, or at least 258 million people, live outside of their country of origin.<sup>1</sup> In 2021 it was reported that the East and Horn of Africa region is home to 13,2 million forced migrants, including 3,6 million refugees and asylum seekers;<sup>2</sup> 50,4 per cent of these migrants are women and girls.<sup>3</sup> Several factors foster regional migration, especially in the case of women and girls. Conflict and insecurity remain the biggest drivers of migration in the region as a result of the destruction of infrastructure and socio-economic service delivery systems.<sup>4</sup> Due to the consistent occurrence of insecurity in the region, civilians are forced to abandon their homesteads as a result of traumatic experiences of killings, torture and kidnapping.<sup>5</sup> Others are forced to flee due to sudden or slow-moving disasters such as droughts, floods or sea level rises, often exacerbated by climate change and environmental stress.<sup>6</sup> Some move in search of better education; improved health services; in order to escape stigmatisation – especially people living with HIV; in search of better remuneration, employment, and better standards of living.<sup>7</sup> Others escape for political reasons such as fear of political persecution, limited or no freedom to exercise their political

1 JE Stiglitz 'Making globalisation work' ESRI Thirty-fifth Geary lecture (2006) 3, 1-12.

2 R Musoke 'Women on the move' *The Independent* 13 September 2022, <https://www.independent.co.ug/women-on-the-move/> (accessed 18 January 2024).

3 As above.

4 <https://www.ohchr.org/en/press-releases/2015/04/committee-migrant-workers-considers-initial-report-uganda> (accessed 13 July 2023).

5 WL Swing 'Migration: Making the move from rural to urban by choice' 16 October 2017, <https://www.iom.int/news/migration-making-move-rural-urban-choice> (accessed 23 November 2022).

6 As above.

7 As above.

and civil liberties, and the breakdown of law-enforcing institutions, among others.<sup>8</sup>

Uganda is currently facing one of the fastest-growing refugee crises in the world.<sup>9</sup> With over 1,5 million refugees, Uganda hosts the largest refugee population in Africa and the sixth largest in the world. Approximately 60 per cent of these refugees come from South Sudan, and approximately 30 per cent come from the Democratic Republic of Uganda, with the remaining percentage coming from Somalia, Eritrea, Burundi, Sudan, Ethiopia and Rwanda.<sup>10</sup> Most refugees are accommodated in the West Nile region, with the remaining in refugee camp settlements in the western and south-western parts of the country and in the capital, Kampala.<sup>11</sup>

Uganda has been widely acclaimed for having an inclusive and exemplary refugee policy dating as far back as the 1960s.<sup>12</sup> On the other hand, Uganda's refugee policy has been critiqued by some as a political and patronage strategy, used by the various political regimes (since independence) to entrench their political rule in the south-western regions and West Nile regions where the refugee camps have been housed as far back as the 1950s.<sup>13</sup> This policy was concretised in 1999 and termed the Self-Reliance Strategy (SRS) aimed at providing assistance to the refugees with the aim of enabling them to become self-sufficient.<sup>14</sup> The assistance included food rations, non-food items, a small plot of land for subsistence agriculture, with the expectation that once they reached self-sufficiency, they would be phased off the food rations and the humanitarian assistance.<sup>15</sup> In reality, this often does not happen as expected, as the pieces of land they are given often need a series of advanced farming practices in order to keep them fertile and in a position to continually produce food.<sup>16</sup> Due to their impoverished status, the refugees often do not have the resources to turn this land into productive land.

8 As above.

9 World Bank 'Informational note on forced displacement in Uganda', Informational-Note-on-Forced-Displacement-in-Uganda-November-2017.pdf (accessed 18 January 2024).

10 [https://civil-protection-humanitarian-aid.ec.europa.eu/where/africa/uganda\\_en](https://civil-protection-humanitarian-aid.ec.europa.eu/where/africa/uganda_en); <https://reporting.unhcr.org/operational/operations/uganda> (accessed 1 June 2024).

11 World Bank (n 9).

12 A Bretts 'Refugees and patronage: A political history of Uganda's "progressive" refugee policies' (2021) 120 *African Affairs* 243-276.

13 As above. The Nakivale settlement which is known as Africa's oldest refugee camp, was already in existence by 1958, based on the country's rural settlement model, providing plots of land to Rwandan Tutsis who were fleeing political persecution.

14 L Hovil 'Self-settled refugees in Uganda: An alternative approach to displacement?' (2007) 20 *Journal of Refugee Studies* 599-620.

15 As above.

16 As above.

Furthermore, the self-reliance strategy is based on the premise that the refugees have to stay in these settlement structures, ultimately confining them to a situation to which some have referred as not being any different from the refugee encampment situation.<sup>17</sup> Article 44 of Uganda Refugee Act 2006 gives the minister authority to designate transit centres or refugee settlements, where refugees and asylum seekers can be temporarily or permanently accommodated.<sup>18</sup> The Act further states that any applicant or refugee who seeks to stay in another place rather than the designated areas may apply to the commissioner and, once authorised, may be required to report to an authorised officer in the local or urban council of the area where they choose to reside.<sup>19</sup>

Due to some of the limiting factors in the settlement areas, some refugees end up moving away and settling into other areas, most notably, Kampala district. This category of refugees is often referred to as 'Self-settled refugees' or in this case, 'Urban Refugees'.<sup>20</sup> Self-settled refugees often face a series of challenges as they fall outside of the scope of protection of those considered refugees by virtue of their opting to live outside the settlements, their exact numbers usually are not known and the law is ambiguous on their protection.<sup>21</sup> The United Nations High Commission for Refugees (UNHCR), with the government's collaboration, has made various efforts to document urban refugees through its urban load case file.<sup>22</sup> The UNHCR further adopted the Urban Refugee Policy which stresses that 'urban refugees', like other refugees, are entitled to protection and other durable solutions and, hence, they must be able to enjoy their rights provided for in the 1951 Convention as well as in other refugee and international human rights laws.<sup>23</sup>

However, the UNHCR reports that it faces a series of challenges when it comes to urban refugees, including an ever-increasing number of undocumented refugees moving to the capital city; huge backlogs in refugee status determination, which hinders their access to full civic rights; unaccompanied minors and separated children; an increase in the number of cases of sexual and gender-based

---

17 As above.

18 Art 44(1) Uganda Refugee Act 2006.

19 Arts 44(2) and (3).

20 SB Murray & SA Skull 'Hurdles to health: Immigrant and refugee healthcare in Australia' (2005) 29 *Australian Health Review* 25-29.

21 Hovil (n 14).

22 <https://data.unhcr.org/en/documents/details/74470> (accessed 16 May 2024).

23 UNHCR *UNHCR policy on refugee protection and solutions in urban areas* (2009), <http://www.unhcr.org/refworld/docid/4ab8e7f2.html> (accessed 7 April 2017).

violence; and chronic refugee unemployment in the urban areas.<sup>24</sup> Those who end up employed often engage in petty businesses or provide casual labour, and there are challenges relating to accessing quality healthcare and education services, among other challenges.<sup>25</sup>

## 2 Focus and scope of study

Much has been written on refugees and specifically on refugees in Uganda. However, most of this is focused generally on refugees in camps or those in areas designated as settlement areas. Very little has been written on refugees who chose not to stay in the areas where they have been designated to stay but rather opt to move to urban areas. Urban refugees usually are discrete and unregistered and are regarded as 'spontaneous' or 'self-settled' refugees – those who have abandoned the encampment regime.<sup>26</sup> Different from camps, urban refugees are scattered, making it more difficult for service providers to correctly appraise their needs.<sup>27</sup> Furthermore, while several studies have addressed refugee rights, very few have taken a step further to investigate how and whether these rights are actualised, in other words, the translation of human rights law or policy into practice. This article attempts to examine the status of implementation of refugee laws and policies, with a specific focus on women and girls. The rights emanating from the refugee laws and policies that are scrutinised by no means are an exhaustive list of the refugee rights. Another focus of the article is the often vulnerable/marginalised aspect of refugees that often translates into their settlement in low-income spaces, which in the context of this article are cautiously referred to as 'urban slums'.

The area of study for this research is Kampala district. Kampala is the capital of Uganda and is estimated to have a population of 3 600 000 people.<sup>28</sup> Kampala's rapid population and urbanisation growth rate, over the years, has resulted in an exponential increase in slums, to the extent that Kampala has been referred to as 'one

24 <https://www.ohchr.org/en/press-releases/2015/04/committee-migrant-workers-considers-initial-report-uganda> (accessed 13 July 2023).

25 <https://reporting.unhcr.org/uganda-refugees-and-asylum-seekers-urban-18> (accessed 17 May 2024).

26 P Marfleet "'Forgotten', 'hidden': Predicaments of the urban refugee' (2007) 24 *Refugee* 36-45.

27 G Hoffstaedter 'Between a rock and a hard place: Urban refugees in a global context' in K Koizumi & G Hoffstaedter (eds) *Urban refugees: Challenges in protection, services and policy* (2016) 1-10.

28 TB Angurini 'Urban population to hit 21 million by 2040-UBOS' 15 May 2022, <https://www.monitor.co.ug/uganda/news/national/urban-population-to-hit-21-million-by-20240-ubos-381650> (accessed 3 December 2022).

big slum'.<sup>29</sup> Kampala is estimated to have approximately 57 slums making up at least a quarter of the city, with about 60 per cent of the total city population living in these slums.<sup>30</sup> These slums include Katanga, Bwaise, Kasubi, Wandegeya, Nakulabye, Kisenyi, Kamwokya, Kanyanya, Kasokoso, Namuwongo, Mbuya, Kabalagala, and many others.<sup>31</sup>

Slums are often described as residential areas with sub-standard housing, usually characterised by overcrowding, often deemed unsafe, unhealthy and socially undesirable.<sup>32</sup> UN-Habitat defines a slum household as a group of individuals living under one roof in an urban environment and lacking one or more of the following: durable housing that protects against extreme weather conditions; adequate living space, often characterised by more than three people sharing a room; lack of access to sufficient safe water; lack of access to sanitation facilities such as well-constructed toilets shared by a reasonable number of people; poor solid waste management; lack of security of tenure often characterised by forced or illegal evictions; and so forth.<sup>33</sup> Slums are also increasingly characterised by high poverty levels, high levels of alcohol and drug abuse, limited access to healthcare services, increasing crime rates, and so forth.<sup>34</sup> The term 'slums' is not without controversy, as it is often rejected by those who inhabit places that are deemed to fit into the category. These often oppose the pejorative and essentialising nature of the term and allege that it is often used as an excuse for public or external interventions aimed at clearing or doing away with slums in ways that further marginalise and impoverish the low-resourced communities that reside in these areas.<sup>35</sup>

29 RK Mugambe and others 'Drivers of waste segregation and recycling in Kampala slums, Uganda: A qualitative exploration using the Behaviour Centred Design Model' (2022) 19 *International Journal of Environmental Research and Public Health* 10947 2; 'Kampala is one big slum' *New Vision* July 19 2023, <https://www.newvision.co.ug/news/1309482/kampala-slum> (accessed 3 December 2022).

30 As above.

31 R Nuwematsiko and others 'Unintended socio economic and health consequences of COVID-19 among slum dwellers in Kampala, Uganda' (2022) 22 *BMC Public Health* 88; 'Top 10 Kampala city slums tour' *Ultimate Wild Safaris*, <https://ultimatewildsafaris.com/index.php/blog/top-10-kampala-city-slums-tour> (accessed 19 July 2023).

32 <https://www.sciencedirect.com/topics/social-sciences/slums> (accessed 13 March 2024).

33 'What are slums? 12 Ddfinitions' *Cities Alliance* 4 March 2013, <https://www.citiesalliance.org/newsroom/news/urban-news/what-slum-twelve-definitions#:~:text=UN%2DHabitat%20defines%20a%20slum,people%20sharing%20the%20same%20room;UN-HABITAT%20Slum%20upgrading>, <https://unhabitat.org/topic/slum-upgrading> (accessed 19 July 2023).

34 R Ndejjo and others 'Drivers of cardio-vascular disease risk factors in slums in Kampala, Uganda: A qualitative study' (2023) 16 *Global Health Action* 2159126; Nuwematsiko and others (n 31).

35 <https://www.sciencedirect.com/topics/social-sciences/slums> (accessed 13 March 2024).

In 2008 Uganda drafted a comprehensive National Slum Upgrading Strategy and Action Plan, which was aimed at slowing the rapid growth of slums, by providing security of tenure; making housing more affordable; and addressing challenges associated with increasing urbanisation typified through brutal urban poverty.<sup>36</sup> Despite this policy framework, slums have increased in and around Kampala, as well as their associated challenges. Furthermore, due to its status as the capital city, Kampala district attracts a multiplicity of refugees from within the Eastern African bloc. These include refugees from different countries, for example, the Democratic Republic of the Congo (DRC), Eritrea, Somalia, Kenya, Burundi, Tanzania and South Sudan.<sup>37</sup> These refugees routinely migrate to Kampala slums in the areas of Kabalagala, Katwe, Bwaise, Kasokoso, Kamwokya and several others.<sup>38</sup>

The research principally used the documentary review method. Due to the topical nature of the research, relevant written material was the main source of information. These included international, regional and domestic human rights documents, Acts, statutes, regulations, policy papers, peer-reviewed journals, opinion pieces, online newspapers, reliable website pieces, organisational websites, organisational reports, and so forth. The author adhered to the authenticity of the documentary research method by ensuring that the information collected was reliable, representative (in the selection of documents), and inferred 'meaning' from the documents.<sup>39</sup> The main limitation of this method was accessing relevant and up-to-date written information on the subject under study. In as much as care was taken to authenticate the sources of information, deductions were drawn using the information that was available.

### 3 Legal/policy framework for refugee women and girls

When it comes to refugee laws and policies, a series of laws have been enacted right from the international to the domestic level in order to address a series of varied impacts of gendered migration on refugee rights. The 1951 UN Refugee Convention Relating to the Status of

---

36 Ministry of Lands, Housing and Urban Development 'National Slum Upgrading Strategy and Action Plan' December 2008 Vi.

37 As above.

38 MF Bwambale and others 'Migration, personal physical safety and economic survival: Drivers of risky sexual behaviour among rural-urban migrant street youth in Kampala Uganda' 4 June 2022, <https://bmcpublihealth.biomedcentral.com/articles/10.1186/s12889-022-13516-y> (accessed 2 December 2022).

39 J Ahmed 'Documentary research method: New dimensions' (2010) 4 *Industrial Journal of Management Sciences* 1-4.

Refugees aims at promoting and protecting refugees' fundamental rights and freedoms without discrimination.<sup>40</sup> In 1976 Uganda ratified the 1951 UN Refugee Convention and its 1967 Protocol.<sup>41</sup> Later, in 1987, the country ratified the 1969 OAU Convention on Refugees.<sup>42</sup> The definition of a refugee in both documents is similar. The 1950 UN Refugee Convention defines a refugee as

any person who owing to a well-founded fear of being persecuted for reasons of race, religion, membership of a particular social group or political opinion is outside the country of his nationality and is unable or unwilling to avail himself of the protection of that country, or who, not having a nationality and being outside the country of his former habitual residence as a result of such events is unable or owing to such fear is unwilling to return to it.<sup>43</sup>

In addition to the definition above, the 1969 OAU Convention added another aspect by further defining a refugee as

every person who, owing to external aggression, occupation, foreign domination or events seriously disturbing public order in either part or the whole of his country of origin or nationality, is compelled to leave his place of habitual residence in order to seek refuge in another place outside his country of origin or nationality.<sup>44</sup>

Relatedly, an asylum seeker is a person who is seeking and awaiting a decision in line with their request for international protection, or who has applied for refugee status and is awaiting a final response to their application.<sup>45</sup>

Other non-binding but persuasive documents at the regional level include the Kampala Declaration on Refugees, Returnees and Internally Displaced Persons in Africa (adopted on 23 October 2009), which commits the African Union (AU) to creating an enabling

40 UNHCR – The Refugee Agency 'The 1951 Refugee Convention', <https://www.unhcr.org/about-unhcr/who-we-are/1951-refugee-convention> (accessed 1 February 2024).

41 International Labour Organisation 'Diagnosis on informality in targeted interventions areas of the prospects programme in Uganda' 8 July 2021, [https://www.ilo.org/wcmsp5/groups/public/---dgreports/---ddg\\_p/documents/genericdocument/wcms\\_815306.pdf](https://www.ilo.org/wcmsp5/groups/public/---dgreports/---ddg_p/documents/genericdocument/wcms_815306.pdf) (accessed 1 March 2024).

42 As above.

43 Art 1(a) of the 1951 Convention Relating to the Status of Refugees as read together with art 1 of its 1967 Protocol. Also see art 1(1) of the 1969 OAU Convention on Specific Aspects of the Refugee Problem.

44 UNHCR – The Refugee Agency 'OAU Convention Governing the Specific Aspects of Refugee Problems in Africa', <https://www.unhcr.org/fr-fr/en/media/oau-convention-governing-specific-aspects-refugee-problems-africa-adopted-assembly-heads> (accessed 31 January 2024).

45 <https://www.unhcr.org/asylum-seekers#:~:text=An%20asylum%2Dseeker%20is%20someone%20who%20intends%20to%20seek%20or,final%20decision%20on%20their%20claim> (accessed 6 June 2024).



environment for refugees and internally-displaced persons.<sup>46</sup> In 2023 the African Commission on Human and Peoples' Rights (African Commission) adopted the African Guiding Principles on the Human Rights of All Migrants, Refugees and Asylum Seekers.<sup>47</sup> While non-binding, these principles gave normative content to refugee rights which had not been elaborated upon in the 1969 OAU Convention. The African Commission has also overseen the organisation of migrant-related seminars/workshops/conferences, and the appointment of a Special Rapporteur on Refugees, Asylum Seekers, Migrants and Internally-Displaced Persons in Africa. It has also allied itself with various international human rights and humanitarian law organisations to protect the rights of refugees in Africa.<sup>48</sup>

At the domestic level, the Refugee Act, 2006 was enacted, which replaced the Control of Aliens Refugee Act, 1960.<sup>49</sup> It is vital to note that Uganda is a dualist country, meaning that in order for international law to be implementable in the country, there is a need for enabling legislation to essentially domesticate it.<sup>50</sup> In reality, Ugandan courts of law have not often followed this to the letter, as they have been known to refer to international treaties even when they have not been domesticated.<sup>51</sup> Nonetheless, by enacting the Refugee Act, 2006, Uganda ultimately completed its obligations in as far as domesticating refugee law and ultimately making it enforceable by national courts.

The Refugee Act applied the same definition of refugees as that which is spelt out in both the 1951 Convention Relating to the Status of Refugees and its 1967 Protocol and the 1969 OAU Convention Governing the Specific Aspects of Refugee Problems in Africa.<sup>52</sup> One common aspect in all the definitions mentioned above is the coercion element which implies that the migration of refugees is not voluntary but rather forced as a result of the various circumstances

46 <https://www.refworld.org/legal/resolution/au/2009/en/70740> (accessed 18 May 2024).

47 <https://achpr.au.int/en/soft-law/african-guiding-principles-human-rights-all-migrants-refugees> (accessed 15 May 2024).

48 JD Mujuzi 'The African Commission on Human and Peoples' Rights and the promotion and protection of refugees' rights' (2009) 9 *African Human Rights Law Journal* 160.

49 'Control of Alien Refugees Act' *Open Law Africa* 30 June 1960, <https://ulii.org/akn/ug/act/ord/1960/19/eng@1960-06-30> (accessed 15 May 2024).

50 DK Agaba 'The impact of the African Charter and Maputo Protocol in Uganda' in VO Ayeni (ed) *The impact of the African Charter and Maputo Protocol in selected African states* (2016) 265-266; JD Mujuzi 'International human rights law and foreign case law in interpreting constitutional rights: The Supreme Court of Uganda and the death penalty question' (2009) 9 *African Human Rights Law Journal* 581.

51 As above.

52 Refugee Act 21 of 2006.

beyond their will or power. Another vital provision in the Refugee Act, similar to that in the international provisions, is section 3(1) which specifies that the granting of the refugee status shall not be taken as an unfriendly act to the country of origin but rather as a humanitarian and peaceful act granted in line with adherence to human rights.<sup>53</sup>

The Refugee Act 2006 provides a comprehensive legislative frame work for the protection of the rights of urban refugees and other related matters.<sup>54</sup> Article 3(2) grants the government the sovereign right to grant or deny the application for refugee status of any person.<sup>55</sup> This discretionary right derogates from international refugee law standards it aims to uphold, specifically the principle of *non-refoulement* laid out in the 1951 Convention and the OAU Convention.<sup>56</sup> By granting the government legal backing to arbitrarily decide on whether or not to grant refugee status, the article essentially weakens the Act.<sup>57</sup> Furthermore, article 11 of the Refugee Act sets out the 'refugee eligibility committee' charged with, among others, dealing with and considering refugee applications. Article 19 sets out that anyone who enters Uganda, wishing to be a refugee, is required to make an application to the eligibility committee within 30 days after their entry. This 30-day stipulation has been noted to be impractical, as many refugees arrive in Uganda fully ignorant of the procedures of refugee status determination, some arrive sick and are still undergoing post-traumatic stress disorder, some are unable to even speak or understand the languages of communication in the country.<sup>58</sup> Furthermore, most border points do not have refugee registration desks and generally there is very little assistance for those applying for asylum. Thus, there is a need for more flexibility by adjusting the deadline for filing the application as well as providing assistance in the preparation of refugee status documents.<sup>59</sup>

In addition, article 20 sets out that the eligibility committee is required to respond, by either granting or rejecting the application within 90 days after the date upon which they have received the application. In reality, this 90-day requirement is not often met as a result of the large influx in the number of asylum seekers in regard to government capacity in relation to limited financial and technical

---

53 Para 3(1) Refugee Act.

54 Art 8 Ugandan Refugees Act.

55 Art 3(2) Ugandan Refugees Act.

56 MG Buwa 'Critique of the Refugees Act, 2006' (2007) Refugee Law Project Policy Paper 1.

57 As above.

58 As above.

59 As above.

capacity to register the refugees.<sup>60</sup> As a result, the asylum seekers often end up waiting one or two years for the complete adjudication of their cases.<sup>61</sup> An applicant whose application has been rejected may appeal to the Refugee Appeals Board within 30 days after receiving the decision of the eligibility committee.<sup>62</sup> However, while the board can set aside the decisions of the eligibility committee, it does not have the power to grant refugee status to an applicant and thus has to send the matter back to the committee for reconsideration, as per articles 17(2) and (4) of the Act. This essentially renders the Appeals Board an impotent organ, merely offering lip service, as opposed to one with appellate powers to reverse the decisions of the Refugee Eligibility Committee (REC) and grant refugee status as and when deemed appropriate.<sup>63</sup>

Due to such restrictions, limitations, contradictions in the law, as well as other systemic challenges, such as the large numbers of asylum seekers, insufficient infrastructure, the small number of refugee status determination officers entitled to work with refugees, huge backlogs have been reported in refugee status determination.<sup>64</sup> It was reported in 2022 that there were approximately 80 000 to 100 000 undocumented refugees, most of whom come from South Sudan, the Democratic Republic of the Congo (DRC) and Somalia, especially those who choose to stay away from the camps.<sup>65</sup> Their undocumented status poses a series of challenges, including limited access to healthcare and education; a high risk of arrest and harassment; difficulties in securing employment; restricted movement in and out of the county; difficulties in accessing decent housing; and several other challenges, as elaborated upon throughout the article.<sup>66</sup>

In addition, article 28 of the Ugandan Refugees Act entitles urban refugees to all the rights guaranteed under the 1951 Convention and the 1969 OAU Convention and other relevant international

60 UNHCR 'Annual Results Report' (2022) 10.

61 As above.

62 Art 21 Refugees Act, 2006.

63 Buwa (n 56).

64 UNHCR (n 60) 10-11.

65 'Over 100 000 undocumented refugees living in Kampala: Lord Mayor' *The Independent* 8 December 2021, <https://www.independent.co.ug/over-100000-undocumented-refugees-living-in-kampala-lord-mayor/#:~:text=Over%20100%2C000%20undocumented%20refugees%20living%20in%20Kampala%3A%20Lord%20Mayor,-The%20Independent%20December&text=Kampala%2C%20Uganda%20%7C%20THE%20INDEPENDENT%20%7C,%2C%20on%20rural%20urban%20migration> (accessed 3 June 2024).

66 Norwegian Refugee Council 'Legal protection needs of refugees self-settled in secondary cities in Uganda' March 2024.

treaties to which Uganda is a party.<sup>67</sup> Therefore, all refugees have the right to be issued with identity cards for purposes of identification and protection,<sup>68</sup> and to stay in Uganda.<sup>69</sup> The Act further provides for urban refugees to own property<sup>70</sup> and to transfer assets,<sup>71</sup> to have access to education, and accords them the same treatment as nationals regarding basic education.<sup>72</sup> To assist urban refugees to become self-reliant, the Act guarantees their right to engage in agriculture, industry, commerce and crafts and to set up other ventures in accordance with applicable laws.<sup>73</sup> The Act also reinforces the rights of urban refugees to be gainfully employed and to contribute to the sustainable socio-economic development of the host country.<sup>74</sup> Related to the Refugee Act, the Refugees Regulations of 2010 were also adopted, which guarantee the rights of refugees to reside in camp settings and make a living, among other rights.<sup>75</sup>

Another vital document in line with the migration aspect at the domestic level is the Uganda Citizenship and Immigration Control Act (UCICA) 2006, of which section VI is dedicated to immigration control, and part VII addresses the registration and control of aliens (a person or people who are not citizens of Uganda).<sup>76</sup> Relatedly, UCICA established the National Citizenship and Immigration Board, established in line with article 16 of the Constitution, charged with issuing identity cards, passports, immigration permits and other related functions.<sup>77</sup> One shortcoming of the Citizenship and Immigration Act is that most of its provisions are prohibitive rather than rights-based. In other words, it serves to control and regulate, rather than lay out the rights to which migrants are entitled. By limiting rights, the UCICA tends to contradict the Refugee Act, which provides an expansive rights mandate to refugees. Also, owing to the fact that the UCICA was adopted in the same year as the Refugee Act, it refers to the Control of Aliens Refugee Act, which essentially was repealed by the coming into force of the Refugee Act.<sup>78</sup> While the UCICA was amended in 2009, the amendments mostly focused around dual citizenship and not refugee clauses.<sup>79</sup> Therefore, there

67 Art 28 Ugandan Refugees Act.

68 Art 29(1)(a) Ugandan Refugees Act.

69 Art 29(1)(b) Ugandan Refugees Act.

70 Art 29(1)(e)(i) Ugandan Refugees Act.

71 Art 29(1)(e)(ii) Uganda Refugees Act.

72 Art 29(1)(e)(iii) Uganda Refugees Act.

73 Art 29(1)(e)(iv) Ugandan Refugees Act.

74 Arts 29(e)(v) & (vi) Ugandan Refugees Act.

75 'The Refugees Regulations 2010 Uganda' *Ref World* 27 October 2010, <https://www.refworld.org/docid/544e4f154.html> (accessed 31 May 2023).

76 Art 2(a) Uganda Citizenship and Immigration Control Act, Chap 66, 2006.

77 Paras 3-7 UCICA.

78 Para 2(g) UCICA; sec 49 Refugee Act, 2006.

79 UCICA Amendment 2009.

is a need to amend the UCICA in order for it to be in line with the expansive rights mandate of the Refugee Act, especially as it related to refugees.

From the above, it is clear to note that the legal and policy landscape on refugees is quite expansive. However, the highlighted limitations within the law, as well as other structural barriers, pose a challenge when it comes to its implementation. These challenges are worth examining.

#### 4 Implementation of refugee laws and policies in relation to women and girls

When analysing the implementation of refugee laws and policies, it is important that the analysis includes a social interpretation rooted in gender norms and culture.<sup>80</sup> It also is vital to take stock of the human rights landscape in line with gendered migration.<sup>81</sup> As highlighted above, the search for enhanced social autonomy, escaping harmful gender and social norms, the need to have more autonomy as regards decision making, better access to employment opportunities, fleeing the heightened gender insecurity as a result of conflict and wars, are among the factors that encourage women and girls to migrate regionally – in this case from within the Eastern African bloc into Uganda and, specifically, Kampala district.<sup>82</sup> While in some instances these reasons are realised when they migrate, they often encounter challenges that end up frustrating these gains.<sup>83</sup>

The following discussion examines the implementation of refugee laws and policies towards the improvement of refugee women's and girls' living conditions, as well as the realisation of their rights, specifically those who opt to stay in Kampala. The major aspects that are discussed are employment/access to decent work and social protection; enhanced autonomy/decision making; housing and basic infrastructure; access to enhanced education; change in gender roles; access to health care, including sexual and reproductive health; employment/access to decent work and social protection; civic participation; violence; security threats; and lack of access to justice. These are by no means exhaustive but aim to provide a contrast between refugee laws/policies and the extent of their realisation.

---

80 S Pedraza 'Women and migration: The social consequences of gender' (1991) 17 *Annual Review of Sociology* 303-325.

81 As above.

82 N Coppola 'Gender migration: Women, migration routes and trafficking' (2018) 3 *New England Journal of Public Policy* 9.

83 As above.

#### 4.1 Employment/Access to decent work and social protection

Employment rights for refugee women and girls are the binding thread when it comes to the enjoyment of rights, as they are vital for the enjoyment of other rights, such as the rights to health, education, adequate housing and enhanced autonomy in decision making.<sup>84</sup> Article 17(1) of the 1951 Convention Relating to the Status of Refugees states that the contracting states shall accord to refugees lawfully staying in their territory the most favourable treatment accorded to nationals of a foreign country in the same circumstances, as regards the right to engage in wage-earning employment.<sup>85</sup> At the domestic level, section 29(1)(e)(iv) of the Uganda Refugees Act 2006 provides for the right of refugees to have access to employment opportunities and engage in paid work.<sup>86</sup> Article 64 of Refugees Regulation 2010 stipulates that a person who has been granted refugee status and is in possession of a valid identity card issued by the commissioner for refugees shall, in order to facilitate their local integration, be allowed to engage in gainful or wage-earning employment and the most favourable treatment accorded to foreign residents in similar circumstances; that recognised refugees shall exceptionally be exempt from any requirement to pay any charges or fees prior to the taking up any offer of or continuing in their employment.<sup>87</sup> However, the Employment Act 2006, which governs employment in the country, does not explicitly mention refugees, except if inferred from the discrimination clauses.<sup>88</sup> In 2023 Parliament passed the Employment Amendment Bill 2022, but even that makes no mention of refugees. Refugees' exclusion from the official laws governing employment hinders them from effectively competing equally with locals for employment opportunities.<sup>89</sup>

Refugees who have moved to Kampala slums are involved in a series of income-generating activities for their livelihood. For example, South Sudanese refugees who reside in Katwe slum tend to be involved in informal jobs or small enterprises such as hawking, tailoring, cooking and laundry work.<sup>90</sup> Congolese refugees who reside in the Katwe areas are often associated with specific economic

84 EM Ndagije 'Implications of youth unemployment on Uganda's national security' unpublished Master's dissertation, Makerere University, 2019 58.

85 Art 17(1) 1951 Refugee Convention.

86 Art 29(1)(e)(iv) Ugandan Refugee Act.

87 Art 64 Refugees Regulations 2010 Uganda.

88 P Lindrio 'Safe but sidelined: Qualified refugees are being turned away from jobs in Uganda' *Global Press Journal* 2 October 2023, <https://globalpressjournal.com/africa/uganda/safe-sidelined-qualified-refugees-encounter-barriers-employment-uganda/> (accessed 7 June 2024).

89 As above.

90 K Kruger 'Invisible to policy: Where are female youth among refugees in Kampala?' *WI-HER* 12 October 2017, <https://wi-her.org/invisible-to-policy->

activities such as textiles, skills development trainings, tailoring, hair dressing, making and selling jewelry and Congolese Kitenge fabrics. Somali refugees in Kisenyi slum end up owning or working in salons, shops and restaurants.<sup>91</sup> Furthermore, Somali privately-owned companies such as City Oil tend to hire a considerable number of Somali refugees.<sup>92</sup> Burundian refugees in Kibuye slum are also typically engaged in the shoes and clothing business.<sup>93</sup>

However, the predominantly informal nature of the work they do, combined with issues of the language barrier, exposes refugee women and girls to financial and sexual exploitation and other forms of exploitation.<sup>94</sup> In addition, at times they are subjected to unfair policies by the Kampala Capital City Authority (KCCA).<sup>95</sup> For adolescent girls the work they do, such as paid domestic work, allows them to escape early marriage, oppressive social norms, and the lack of control over their lives.<sup>96</sup> However, because paid domestic work is done mainly in private homes, there is an increased risk of abuse and mistreatment. Domestic workers are often not paid or are underpaid, work long hours, may be sleep deprived and may find it difficult to get time off.<sup>97</sup> Additionally, refugee women and girls doing domestic work are more likely to be victims of sexual abuse and rape by their employers because they are socially isolated and dependent on their employers. They are often excluded and have difficulties in claiming wages because of their legal status.<sup>98</sup>

A 2021 study by the International Labour Organisation (ILO) reviewed Ugandan policy with regard to refugees' employment rights.<sup>99</sup> According to the study, refugees' rates of participation in the labour force are lower than those of the general population, with refugee unemployment in Uganda estimated at 72 per cent. Those finding employment often end up in the informal sector, working

---

where-are-female-youth-among-refugees-in-kampala (accessed 29 February 2024).

91 A Betts and others 'Refugee economies in Uganda: What difference does the self-reliance model make?' University of Oxford: Refugee Studies Centre 2019, 15, <https://www.rsc.ox.ac.uk/publications/refugee-economies-in-uganda-what-difference-does-the-self-reliance-model-make/@@download/file>; D Kigozi 'Congolese "refugees" and freedom of movement in the Kampala urban space' 16 April 2015, <https://refugee-rights.org/congolese-refugees-and-freedom-of-movement-in-the-kampala-urban-space-2/> (accessed 12 March 2024).

92 As above.

93 A Bronee & P Haupt 'Interview: Finding solutions together/UNHCR' *Global Impact on Refugees* 30 August 2029 5, <https://globalcompactrefugees.org/news-stories/interview-finding-sloutions-together> (accessed 20 March 2023).

94 Kruger (n 90).

95 As above.

96 As above.

97 As above.

98 As above.

99 Lindrio (n 88).

longer hours and earning wages that are 35 per cent to 45 per cent lower than those of Ugandans.<sup>100</sup> The jobs that are informal include hawking, tailoring, hospitality and domestic services. In Kampala, the gender gap in employment for refugees was recorded at 70 per cent for males compared to 57 per cent for females.<sup>101</sup> This gender gap was attributed to education gaps for women and girls, gender stereotypes that make employers reluctant to hire women, and a lack of technical and financial skills that are needed to start and run their own businesses.<sup>102</sup> Additionally, due to high unemployment levels, the majority of youths turn to risky or dangerous activities including sex trafficking, the abuse of drugs, and other criminal acts that increase their potential for imprisonment.<sup>103</sup> Unemployment and the lack of a basic income also deprive women, the sick, the elderly and children of food, decent shelter, healthcare services and education.<sup>104</sup>

Furthermore, contrary to the Refugee Act and Regulations provisions stipulated above, as well as the claims by the Office of the Prime Minister, that once a refugee is in the country, they are allowed *de facto* to work,<sup>105</sup> the Citizenship and Immigration Control Act requires foreigners, including refugees, to obtain work permits, the exception being that refugees are exempted from paying fees for obtaining a work permit, as per article 64 of the Regulations, outlined above. As a result of this provision, the Directorate of Citizenship and Immigration Control (DCIC) stamps work permits on Refugee Convention travel documents.<sup>106</sup> In cases where refugees possess only refugee identification documents, the DCIC often declines to stamp work permits for them.<sup>107</sup> This is not only contradictory to the regulations mentioned above, but also limits employment for refugees without conventional travel documents (CTDs), which are not easy to acquire on account of the fees required to process them (around \$62) but also the duration it takes to access them.<sup>108</sup> This lack of clarity and uniformity, as well as inconsistent enforcement of the provisions guiding the employment of refugees, often leads to a situation where government officials, potential employers and

---

100 As above.

101 UNHCR 'Uganda knowledge brief' July 2021 5.

102 UNHCR (n 101) 14.

103 As above.

104 J Birchall 'Gender, age and migration: Extended briefing' 7 April 2016, <https://opendocs.ids.ac.uk/opendocs/bitstream/handle/123456789/10410/General%20Age%20and%20%20Migraton%20Extended%20Briefing.pdf?sequence=1> (accessed 23 August 2022).

105 Women's Refugees Commission *The living isn't easy: Urban refugees in Kampala* (2010) 2.

106 UNHCR (n 101) 13-14.

107 UNHCR 'Country Summary as at 30 June 2023' 8-9.

108 As above.



refugees are not clear on the refugees' 'terms of employment'. This leads to a situation where employers are wary of hiring refugees.<sup>109</sup> It is also reported that refugees who engage in formal work are frequently besieged by government and immigration officials and are consistently exploited and discriminated against in accessing employment.<sup>110</sup>

Therefore, in line with the laws set out above, there is a need to revise the employment laws as they relate to refugees with the aim of doing away with the contradictions therein. Furthermore, there is a need to address the structural barriers when it comes to the implementation of these laws. Other measures include skilling for refugee women and girls; addressing gender stereotypes that hinder refugee women's employment in formal employment; facilitating their access to financial institutions with affordable loans; and SACCO funds to increase their autonomy and enhance their ability to earn through favourable and lawful employment opportunities. Furthermore, there is a need for strengthening laws concerned with minimum wages paid to domestic workers. Relatedly, labour courts should be set up for refugee women and girls in Kampala urban slums aimed at lobbying for their labour rights.

#### 4.2 Enhanced autonomy/decision-making power

At their core, gender relations are power relations. This power keeps shifting between the sexes based on a series of factors. One of the major ways in which gender inequality manifests is the lack of or limited decision-making power in line with economic opportunities and household decisions, as it pertains to women and children. Their ability to autonomously make and own their decisions is often worsened by conflict due to its destabilising effect on countries' socio-economic structures.<sup>111</sup> By moving to Kampala and being able to access employment opportunities, as laid out above, refugee women and girls facilitate in filling the critical gaps in the labour markets with a positive impact on employment production.<sup>112</sup> As refugee women's and girls' access to financial resources increases, so does their autonomy, decision-making power and self-esteem at the household

---

<sup>109</sup> Women's Refugees Commission (n 105).

<sup>110</sup> As above.

<sup>111</sup> DF Larson & KL Bloodworth 'Mechanisation and the inter-sectoral migration of agricultural labour' 2 December 2022, [https://link.springer.com/chapter/10.1007/978-981-19-5542-6\\_20](https://link.springer.com/chapter/10.1007/978-981-19-5542-6_20) (accessed 12 April 2023).

<sup>112</sup> R Certo 'Fostering women's empowerment in Uganda' 27 June 2022, <https://www.fes.de/en/shaping-just-world/article-in-shaping-a-just-world/fostering-womens-empowerment-in-uganda> (accessed 2 December 2022).

and extended family level.<sup>113</sup> As a result of these income-generating opportunities, refugee women and girls often are in position to invest remittances in children's education and health care, both in Kampala and back home, thus positively contributing to Uganda's and their country's revenue and, by extension, development goals.<sup>114</sup>

This acquired autonomy is often instrumental in positively shifting refugee women's power dynamics, thereby putting them in a position where they can influence their families and home communities to adopt more equitable norms around education, marriage, fertility rates, and reproductive and gender roles in the household and community.<sup>115</sup> For example, Ethiopian and Eritrean refugee women that run restaurants and guest houses in Kabalagala are reported to have used their increasing decision-making power to employ Ugandans and other refugee women and girls as well as directed their funds towards health care and education for their families both in Kampala and back home.<sup>116</sup>

On a different note, this increased autonomy on the part of refugee women and girls, in certain instances, has brought about adverse consequences such as the enforcement of stricter traditional values in order to preserve social norms when they appear to be under attack.<sup>117</sup> The change in roles that men may experience or their inability to adapt to the increased decision-making power by the women can increase their desire to assert their position, sometimes resulting in negative consequences. For instance, men's failure to provide for the family can cause frustration leading to violence against their wives and children.<sup>118</sup> Congolese refugee women reported that among married couples, domestic violence occurs more often in Kampala

113 AE Jack 'Gender and armed conflict: Overview report, 1 January 2003, [https://www.researchgate.net/publication/237250440\\_Gender\\_Armed\\_Conflict\\_Overview\\_report](https://www.researchgate.net/publication/237250440_Gender_Armed_Conflict_Overview_report) (accessed 3 December 2022); JA Matz & LM Mbaye 'Migration and the autonomy of women left behind' (2017) 64 *European Journal of Development Research* 19.

114 SL Ekra and others 'The impact of remittances on gender roles and opportunities for children in recipient families: Research from the international organisation for migration' (2011) 19 *Gender and Development* 69-80.

115 JB Bravo 'Rural-urban migration: A path for empowering women through entrepreneurial activities in West Africa' (2015) 5 *Journal of Global Entrepreneurship Research* 1; J Birchall 'Gender, age and migration: Extended briefing' 7 April 2016, <https://opendocs.ids.ac.uk/opendocs/bitstream/handle/123456789/10410/General%20Age%20and%20%20Migration%20Extended%20Briefing.pdf?sequence=1> (accessed 23 August 2022).

116 Bronee & Haupt (n 93) 5; DT Kadengye and others 'Effects of women's intra-household bargaining power on postnatal and infant health care in rural Uganda: Results from a cross-sectional survey in Kyenjojo district' 12 February 2020, <https://pubmed.ncbi.nlm.gov/32087395/> (accessed 23 August 2022).

117 United Nations General Assembly 'The impact of migration on migrant women and girls: A gender perspective' 15 April 2019, [https://digitallibrary.un.org/record/3804642/files/A\\_H\\_RC\\_41\\_38\\_EN.pdf](https://digitallibrary.un.org/record/3804642/files/A_H_RC_41_38_EN.pdf) (accessed 2 December 2022).

118 As above.

than it did in their country of origin because of increased tension in the household, due to economic pressures and other difficulties related to them being foreigners.<sup>119</sup> They further reported an increase in the occurrence of child marriages in Kampala<sup>120</sup> because, whereas in the DRC a girl in their village might get married at 15 years of age, in Kampala, because of economic pressure, the age can be lowered to 12 or 13 years.<sup>121</sup>

In addition, despite a marked improvement in their financial standing, refugee women and girls tend to face resistance or stigma and struggle to reintegrate into their families once they decide to go back to their homes. More so, in instances where they find their money or remittances and property mismanaged, they struggle with the moral and financial debt they owe to their families, who have often invested money in their outward journey.<sup>122</sup> Moreover, prolonged conflict tends to alter family and household structures as well as change the gender roles and responsibility of women and girls.<sup>123</sup> Thus, when they flee their countries, the men and boys are usually separated from their families, leaving the women and girls to take on more responsibilities including the financial provision for those left in their care, including the elderly, children and the sick.<sup>124</sup>

Increased decision-making power for refugee women and girls is a vital avenue for achieving gender equality. This is stipulated in several refugee-related laws and policies. Article 29(c) of the Refugee Act 2006 states that a refugee shall be entitled to fair and just treatment without discrimination on grounds of race, religion, sex, nationality, ethnic, identity, membership of particular social group or political opinion.<sup>125</sup> Article 62 of the Refugees Regulation 2010 states that in the integration of refugees in the host communities, the commissioner shall in cooperation with the UNHCR and other organisations involved in the assistance of refugees ensure that

119 'Gender-based violence prevention and response: Key risks facing urban refugees in Kampala' *Refugee Law Project* 1 March 2016 3, <https://relief.int/report/uganda/gender-based-violence-prevention-and-response-key-risks-facing-urban-refugees-kampala> (accessed 2 April 2024).

120 As above.

121 As above.

122 D Mulumba 'Gender relations, livelihood security and reproductive health among women refugees in Uganda: The case of Sudanese women in Rhino camp and Kiryandongo refugee settlements' 2005, <https://edepot.wur.nl/42396> (accessed 1 March 2024).

123 J Cerrato & E Cifre 'Gender inequality in household chores and work-family conflict' 3 August 2018, <https://www.frontiersin.org/articles/10.3389/fpsyg.2018.01330/full> (accessed 1 March 2024).

124 As above.

125 Refugee Law Project 'The Refugees Act 2006' 24 May 2006, [https://www.refugeelawproject.org/files/legal\\_resources/refugeesact.pdf](https://www.refugeelawproject.org/files/legal_resources/refugeesact.pdf) (accessed 30 May 2023).

special attention is given to women, children and persons with disabilities.<sup>126</sup> Furthermore, article 6(2) of the Employment Act 2006 states that without prejudice to subsection (1), in the interpretation and application of this Act, it shall be the duty of all parties, including the minister, a labour officer and industrial court, to promote and guarantee equality of opportunity for persons who, as migrant workers or as members of their families, are lawfully within the territory of Uganda.<sup>127</sup> Therefore, a vital part of increasing women's and girls' decision-making power is through the commitment to the implementation of the legal provisions mentioned above as well as the comprehensive inclusion of refugee women and girls in socio-economic national systems in order to enable them to lead a decent life, to access public services while contributing fully to the local economies of their host countries.<sup>128</sup>

### 4.3 Civic participation and issues of residency

Women refugees' and girls' rights to political participation tend to be limited by the law, especially at the domestic level. The Refugee Act recognises that refugees have a right to freedom of association, but this does not extend to political and for-profit associations or trade unions.<sup>129</sup> Furthermore, in order to effectively participate in political affairs, their residence status should be more certain, which is confusing when it comes to the law pertaining to their residency, citizenship or naturalisation. Ratified by Uganda in 1976, the 1951 UN Convention Relating to the Status of Refugees states that the contracting states shall as far as possible facilitate the assimilation and naturalisation of refugees.<sup>130</sup> Furthermore, Principle 24(1) of the Human Rights of All Migrants, Refugees and Asylum Seekers states that 'every refugee has the right to participate in civil and political life of the migrant's community and in the conduct of public affairs'.<sup>131</sup> Also according to sections 35(a), (b) and (c) of the Refugees Act 2006, a recognised refugee shall be bound by and conform to all laws and regulations currently in force in Uganda, conform to

<sup>126</sup> Refugees Regulations 2010 Uganda (n 75).

<sup>127</sup> Art 6(2) Employment Act 2006.

<sup>128</sup> Resolution on the Inclusion of Refugees, Asylum Seekers, Internally Displaced Persons and Stateless Persons in Socio-Economic National Systems, Services and Economic Opportunities in Africa ACHPR/Res.565 (LXXVI) 2023 African Commission on Human and Peoples' Rights 4 August 2023, <https://achpr.au.int/en/adopted-resolution/565-resolution-inclusion-refugees-asylum-seekers-internally-displaced> (accessed 2 February 2024).

<sup>129</sup> Refugees Act 2006 (n 125).

<sup>130</sup> 1951 Refugee Convention (n 40).

<sup>131</sup> 'African Guiding Principles on the human rights of all migrant, refugees and asylum seekers' African Commission on Human and Peoples' Rights 8 November 2023, <https://achpr.au.int/en/soft-law/african-guiding-principles-human-rights-all-migrants-refugees> (accessed 2 February 2024).

measures taken for the maintenance of public order and not engage in activities that may endanger state security, harm public interests or disrupt public order.<sup>132</sup>

The Constitution and UCICA contain similar provisions where citizenship is concerned. Article 16 of the UCICA, which is similar to article 12(c) of the Constitution, stipulates that the National Citizenship and Immigration Board (Board) may grant naturalisation where the applicant fulfils a number of criteria, including 20 years' residence (of which 24 months must immediately precede the application), an adequate knowledge of English or a prescribed vernacular language and good character.<sup>133</sup> Articles 12(1) and 14(1) of UCICA, which are similar to article 12(1) of the Constitution, states that someone born on the territory is eligible for citizenship by registration, but only if 'neither of his or her parents and none of his or her grandparents was a refugee in Uganda'.<sup>134</sup> This particular clause limits refugees' ability to apply for citizenship. In addition, section 14(2)(b) of UCICA, which enables citizenship by registration for migrants, provided they migrated 'legally and voluntarily', also seems to exclude refugees, since they do not voluntarily migrate but are often forced to flee their countries.<sup>135</sup> Clauses such as these limit refugees' ability to naturalise or become citizens, which would then facilitate their right to political participation as well as their freedom of movement.

Indeed, entities working with refugees have regularly reported the challenges they face in facilitating refugees to legally become Ugandans, even when they meet the minimum requirements, including having spent more than 20 years in Uganda as stipulated by the Constitution and UCICA.<sup>136</sup> The inability to transition into citizens hinders or limits a series of their rights, including the right to participate in political processes, vote and even obtain formal employment.<sup>137</sup> To this end, in 2010 the Centre for Public Interest Law and Refugee Law Project took a case to the Constitutional Court, requesting the clarification of refugees' rights to acquire citizenship under the law (articles 12(1) and 12(2) of the 1995

<sup>132</sup> Arts 35(a), (b) & (c) Refugees Act 2006.

<sup>133</sup> The 1999 Uganda Citizenship and Immigration Control Act.

<sup>134</sup> As above.

<sup>135</sup> As above.

<sup>136</sup> SG Walker 'From refugees to citizens? Obstacles to the naturalisation of refugees in Uganda' *Refugee Law Project* 1 November 2019, [https://www.refugeelawproject.org/index.php?option=com\\_content&view=article&id=144:from-refugee-to-citizen-obstacles-to-the-naturalisation-of-refugees-in-uganda-august-2008&catid=19&Itemid=101](https://www.refugeelawproject.org/index.php?option=com_content&view=article&id=144:from-refugee-to-citizen-obstacles-to-the-naturalisation-of-refugees-in-uganda-august-2008&catid=19&Itemid=101) (accessed 11 April 2024).

<sup>137</sup> As above.

Uganda Constitution).<sup>138</sup> This application was based on verified reports by refugees of being denied access, by the immigration department, to the application process of citizenship on the basis that the Constitution bars Ugandan refugees from ever acquiring citizenship.<sup>139</sup>

Five years later, in 2015, the Court handed down the decision which was termed a 'mixed bag' by the petitioners, on the basis of its lack of clarity.<sup>140</sup> The judges declared that refugees were not eligible for citizenship by registration but could rather take the route of naturalisation. However, they refused to grant the order to compel the government to start on the process of considering the pending refugee applications, stating that the petitioners had not presented sufficient evidence and that government departments had failed to do so.<sup>141</sup> The petitioners were disappointed by the ruling, citing that the production of evidence is an uphill task due to the fact that the rejection processes are usually informal and not documented, for instance, the application forms being verbally denied or told that they do not qualify.<sup>142</sup>

They further reported that there were documented cases where officials made the acquisition of the documents impossible by, for instance, relying on obsolete laws such as the Uganda Citizen Act of 1964 which was replaced by the UCICA, and that, even in the instance where they had managed to secure three witnesses, due to the lengthiness of the case, two had relocated to the US and another could no longer be reached.<sup>143</sup> This is a clear illustration of the need to clarify or deal with the contradictions or confusion in the immigration laws such as the Constitution, UCICA, the Refugee Act, the Refugee Regulations, the Employment Act and others. This translates into their inconsistent application, the lack of awareness as well as challenges with interpreting legal procedures among those charged with the execution of laws and policies. Related to this, the various stakeholders should clarify the conditions by which refugees, who meet the obligations, transition to residents either by naturalisation or citizenship and also remove the systemic barriers and delays that often hinder this process.

138 'Centre for Public Interest Law Ltd *Salina Namusobya v The Attorney General* Constitutional Petition No 34 of 2010' 21 October 2015, <https://www.refworld.org/jurisprudence/caselaw/ugacc/2015/en/107469> (accessed 11 March 2024).

139 'The eligibility for refugees to acquire Ugandan citizenship' *IRRI* 22 March 2016, <http://refugee-rights.org/the-eligibility-for-refugees-to-acquire-ugandan-citizenship/> (accessed 1 May 2024).

140 As above.

141 *Namusobya* (n 138).

142 'The eligibility for refugees to acquire Ugandan citizenship' (n 139).

143 As above.

From a gendered perspective, challenges around residency limit refugee women and girls from taking part in political decision-making and policy processes.<sup>144</sup> This compounds the gendered discrimination element by adding the residency status to that of already having less decision-making power on the basis of their gender and socio-economic status. Furthermore, women's participation in immigration associations is often constrained by sexism and marginalisation, as these associations often end up reproducing traditionally discriminatory gender relations.<sup>145</sup> The limited participation of refugee women and girls and their inability to advance specific priorities on the collective agenda has forced them to form their own associations, of which the actions and interventions are more gender-sensitive and gender-specific.<sup>146</sup> For example, different women-led cooperatives/SACCOS in the areas of Kabalagala, Katwe have been formed, which have enabled refugee women and girls to access loans and provide for their families.<sup>147</sup> Somali refugees in Kisenyi have engaged in starting and running small and medium-scale enterprises that provide employment and financial resources to secure or meet other needs such as housing, food, health care and education.<sup>148</sup> They also engage in developing and maintaining social networks with Ugandans and fellow Somalis in Kisenyi. The social networks provide them with significant relationships and financial resources to establish business enterprises.<sup>149</sup> As a result, this socio-culturally mediated agency, attained by engaging in actions aimed at improving their living conditions, has greatly enhanced refugee women's socio-economic well-being. Therefore, in order to enhance their participation in civic and political decision making, refugee women and girls should be at the centre of developing, implementing and reviewing immigration laws, policies, programmes and regulations.

#### 4.4 Housing and basic infrastructure

Article 21 of the UN Convention Related to the Status of Refugees states that, in line with housing, the contracting states shall accord refugees lawfully staying in their territory treatment as favourable as possible and, in any event, not less favourable than that accorded

<sup>144</sup> UNGA (n 117).

<sup>145</sup> G Ferrant & M Tuccio 'How do female migration and gender discrimination in social institutions mutually influence each other' (2015) OECD Development Centre working paper 326.

<sup>146</sup> MS Balyejusa 'Somali refugees' well-being: The role of socio-culturally mediated agency' (2019) 6 *Journal of Science and Sustainable Development* 149-166.

<sup>147</sup> As above.

<sup>148</sup> As above.

<sup>149</sup> As above.

to aliens generally in the same circumstances.<sup>150</sup> In addition, article 29(1)(e)(i) of the Refugees Act 2006 states that a recognised refugee shall receive at least the same treatment accorded to nationals generally in similar circumstances relating to property and to leases in line with movable and immovable property. Article 65 of the 2010 Refugee Regulations stipulates that a refugee who resides outside a designated refugee camp as a tenant may legally acquire or dispose of their occupancy or leasehold interests in land, as the law permits resident nationals generally to do.<sup>151</sup> Principle 28(1) of the Guiding Principles on the human rights of all migrants, refugees and asylum seekers stipulates that states shall recognise the right of every refugee and their family to an adequate standard of living, including adequate food, clothing and housing, and to the continuous improvement of living conditions.<sup>152</sup>

It is estimated that 12 per cent (over 200 000) of Kampala residents are refugees (more than half of whom are women and girls), particularly residing in the slums of Kisenyi, Katwe and Kabalagala.<sup>153</sup> Most of these come from Somalia and the DRC with an increasing number of recent arrivals being South Sudanese.<sup>154</sup> According to the office of the Prime Minister, between 2008 and 2017 the number of registered Somali refugees in the country soared from 8 239 to 41 234, with 43 per cent of the total registered in Kampala and the rest in Nakivale refugee settlement.<sup>155</sup> This figure does not account for Somalis with foreign passports who regularly travel in and out of Uganda.<sup>156</sup> Furthermore, an estimated 18 000 Somalis reside in the Kisenyi slum.<sup>157</sup>

Most urban refugees who do not wish to reside in settlements end up residing in slums or informal settlements on the fringes of urban areas.<sup>158</sup> This is based on the notion that, in the urban environment, refugees can locate places of transitory protection, where they are

150 1951 Refugee Convention (n 40).

151 Art 65 Refugees Regulations 2010 Uganda.

152 Guiding Principles (n 131).

153 Kruger (n 90).

154 As above.

155 G Lazzolino & M Hersi 'Shelter from the storm: Somali migrant networks in Uganda between international business and regional geopolitics' (2019) 13 *Journal of Eastern African Studies* 1753-1063; S Muhindo & E Jjingo 'Lubaga, Kisenyi, Kabalagala, Ggaba now "Little horn of Africa"' *The Observer* 5 September 2023, <https://observer.ug/lifestyle/79025-lubaga-kisenyi-kabalagala-ggaba-now-little-horn-of-africa> (accessed 28 February 2024).

156 As above.

157 'The voices of three Somali women refugees finding their way in Kampala' *IOM UN Migration* 25 April 2019, <https://uganda.iom.int/news/voices-three-somali-women-refugees-finding-their-way-kampala> (accessed 5 April 2024).

158 A Lucia 'Challenges and livelihood strategies of Daurian refugees living in Kampala, Uganda' MA dissertation, University of San Francisco, 2012.



more dependent on their own networks and personal resilience and also have no choice but to be self-reliant.<sup>159</sup> However, when they move to Kampala, they often find it difficult to find housing on their own due to unemployment and low income levels.<sup>160</sup> The UNCHR provides minimal support to the vulnerable group of refugees in the areas of accommodation, including food, limited access to education and health care.<sup>161</sup> However, as highlighted, the support is minimal. At times, they do not have their residential papers in order, limiting their ability to rent or even purchase homes.<sup>162</sup> In addition, landlords and employers often take advantage of urban refugees who do not enjoy legal protection by charging them higher rents or paying them less than locals with equivalent skills.<sup>163</sup>

Moreover, life, especially in the urban slums, by no means is easy for refugee women and girls. These mostly reside in sub-standard settlements that are often overcrowded, and lack basic infrastructure services such as water, sanitation and medical facilities.<sup>164</sup> In addition, pests, diseases and unsanitary housing are a threat to girls and women living in slums. The houses often have leaking roofs, inadequate drainage facilities, and are infested by insects and rodents that are carriers of disease.<sup>165</sup> A study conducted by the women's refugee commission revealed that many urban refugees are vulnerable and live in extreme poverty, are unable to pay for their basic needs such as rent, and some sleep on the streets, eat less frequently and engage in negative economic strategies.<sup>166</sup> The regulations also recognise the general lack of consultation with urban refugees on issues pertinent to the protection of their rights.<sup>167</sup>

Inadequate urban planning also affects refugee women and girls that live on marginal lands due to poor garbage disposal and narrow drainages and unplanned development, which can also lead to localised urban flooding.<sup>168</sup> Research conducted in the slums

<sup>159</sup> Hoffstaedter (n 27).

<sup>160</sup> 'Gender discrimination: Women's rights and lives in slums today' *Habitat for Humanity Great Britain*, [http://gender.itcilo.org/toolkit/online/story\\_content/external\\_files/TA\\_migration.pdf](http://gender.itcilo.org/toolkit/online/story_content/external_files/TA_migration.pdf) (accessed 23 August 2022).

<sup>161</sup> UNHCR (n 23).

<sup>162</sup> As above.

<sup>163</sup> B Dale 'Case identification: Challenges posed by urban refugees' Annual Tripartite Consultations on Resettlement June 2003.

<sup>164</sup> A Richmond, I Myers & H Namuli 'Urban informality and vulnerability: A xcse study in Kampala, Uganda' 5 March 2018, <https://www.mdpi.com/2413-8851/2/1/22> (accessed 26 July 2023).

<sup>165</sup> As above.

<sup>166</sup> Women's Refugees Commission (n 105).

<sup>167</sup> Art 61 Refugees' Regulation 2010.

<sup>168</sup> SB Musoke 'Vulnerabilities and urban flooding in Bwaise parish iii, Kampala Uganda' 1 January 2012, <https://www.diua-portal.org/smash/get/diua2:535079/FULLTEXT01.pdf> (accessed 23 August 2022).

of Bwaise reveals that refugee women and girls in particular are affected by flooding directly and indirectly, which often leads to loss of property as well as copious amounts of time taken to evacuate water from their homes.<sup>169</sup> For example, Kisenyi slum, which is home to many Somali refugees, is characterised by poor temporary housing and poor water supplies and sanitation.<sup>170</sup> In addition, refugee women and girls are often more affected by flooding due to the fact that most of their time is spent at home and, thus, when the flooding occurs, they are often in their houses.<sup>171</sup> Likewise, due to floods, water-borne diseases such as cholera, typhoid, gastroenteritis and other diseases often spread rapidly in populated communities.<sup>172</sup>

The conditions described above demonstrate the failure by government and other relevant stakeholders to realise the conditions that are necessary to ensure sufficient access to adequate housing for refugee girls and women. This is so despite the elaborate human rights and legal provisions relating to their property and housing conditions that have been set out above. Therefore, there is a need to ensure proper urban planning as well as tracking the status of implementation of the 2008 National Slum Upgrading Strategy and Action Plan. Improving housing conditions would entail addressing cases of congestion, hygiene-related diseases and flooding as a result of poor drainage systems in those areas. It also requires ensuring basic infrastructure services such as clean and safe water, garbage disposal, housing and health facilities that are affordable for the less-resourced populations, especially refugee women and girls.

#### 4.5 Access to education

Uganda has an extensive legal landscape stipulating refugee rights to education, as set out below. Refugee children are expressly granted access to basic education and may not receive less favourable treatment than nationals.<sup>173</sup> Article 29(1)(e)(iii) of the Refugees Act 2006 of Uganda stipulates that refugees shall receive the same treatment as nationals in circumstances relating to education and, in particular, regarding access to particular studies, the recognition of foreign certificates, diplomas and degrees and remission of fees and charges.<sup>174</sup> The introduction and implementation of the Universal Primary Education (UPE) policy of 1997 and the Universal

---

169 As above.

170 'AFFCAD'S story', <https://affcad.org/about/> (accessed 23 August 2022).

171 Musoke (n 168).

172 As above.

173 Sec 2 read with sec 34(1) Refugees Act.

174 Art 29(1)(e) Refugee Act (n 72).

Secondary Education (USE) policy of 2007 increased opportunities for disadvantaged children, including refugees who have migrated to Kampala, to access and benefit from basic primary and secondary education.<sup>175</sup> In addition, in 2018 the Ministry of Education and Sports, came up with the Education Response Plan for Refugees and Host Communities in Uganda (ERP) which facilitated the education of over 500 000 children and youths in refugee hosting areas.<sup>176</sup>

However, section 29(1)(e) subjects refugees seeking secondary education to the same treatment accorded to aliens in similar circumstances (that is, if they can afford it). This is contradictory to the Education (Pre-Primary, Primary and Post-Primary) Act (2008)). Section 4(2) of the Act states that '[b]asic education shall be provided and enjoyed as a right by all persons'. Nevertheless, the government maintains that refugees, in practice, do enjoy free access to the USE programme.<sup>177</sup> Section 9(1) of the Act further states that '[n]o person or agency shall levy or order another person to levy any charge for purposes of education in any primary or post-primary institution'. Furthermore, in practice, despite the provision of section 9, fees are charged for all children, whether refugees or nationals, to write national examinations at the conclusion of both primary and secondary school.<sup>178</sup> Similarly, additional charges for registration, development and feeding have been imposed by some schools. The fees charged by the Ugandan National Examination Board at the end of primary and secondary school, to write the respective examinations, prevent many children from completing these levels of schooling.<sup>179</sup>

Conflicts prompt persons, in this case women and girls, to flee their countries and reside in other countries, thereby disrupting their education. The time taken in transit disrupts their education and even when they arrive at their final destination, they spend some time out of school while others never have the chance to re-enrol for education. For example, Congolese refugees residing in Kampala often come from a school system in which the language of instruction is French, into a system in which the language of instruction is

---

175 'Education and sports sector strategic plan 2017-20, Uganda' Ministry of Education and Sports 7 May 2020, <https://www.globalpartnership.org/content/education-and-sports-sector-strategic-plan-2017-2020-uganda> (accessed 18 July 2023).

176 As above.

177 MM Sekawebe 'Increasing access to education for refugees in Uganda' (2021) 25 *Law Democracy and Development* 558.

178 Sekawebe (n 177) 555-556.

179 As above.

English, hence they face language barrier challenges.<sup>180</sup> The lack of comprehensive educational, training and economic opportunities has a significant impact on refugee women and girls as they are not equipped or qualified to earn an income that ensures self-sufficiency and development.

Furthermore, most Somali refugee women and girls residing in Kabalagala slum struggle to pay the high tuition costs of the universities they attend along Ggaba Road, thus hindering their completion of university education. These campuses include Kampala International University, Cavendish University and the International University of East Africa.<sup>181</sup> As a result, most refugee women and girls find it difficult to find work in urban centers due to lower literacy rates.<sup>182</sup> Most also fall victim to child marriages and teenage pregnancies, destining them for a life of continued poverty.<sup>183</sup>

Several other factors contribute to the inability of refugee women and girls to access quality education. One of these is early or forced marriage in order to attain economic security to cater for their immediate needs.<sup>184</sup> Financial costs of education, especially in urban areas, limit the number of refugees who can attend school. English as the language of instruction forces most refugee women and girls to repeat classes, causing them to attain education at a much older age, compared to their class mates, a factor that affects their social integration.<sup>185</sup> The Women Refugees' Commission further contends that barriers, such as discrimination in admission procedures, by which limited seats go to non-nationals, language barriers, adjustment to a new curriculum, and the psychosocial needs of urban refugees to public schools often affect refugee women and girls. As a result, it is reported that more than half of the refugee children of school-going

180 O Giovetti 'Forced migration: Six causes and examples' 28 June 2019, <https://www.concernusa.org/story/forced-migration-causes/> (accessed 13 April 2023).

181 Muhindo & Jjingo (n 155).

182 MP Tadaro 'Urbanisation, unemployment and migration in Africa: Theory and policy' Policy Research Division Working Paper 104, New York: Population Council, 1997, [https://knowledgecommons.popcouncil.org/cgi/viewcontent.cgi?article=1247&context=departments\\_sbsr-pgy](https://knowledgecommons.popcouncil.org/cgi/viewcontent.cgi?article=1247&context=departments_sbsr-pgy) (accessed 23 August 2022).

183 A Taremwa 'Adolescent saving groups move to end child marriages, teenage pregnancies in Kamuli district' 26 May 2021, <https://www.unicef.org/uganda/stories/adolescent-sving-groups-move-end-child-marriages-teenage-pregnancies-kamuli-district> (accessed 23 August 2022).

184 E Camilletti & P Banati 'Gender, social protection and life course research: Moving the fields forward' 15 January 2020, <https://www.unicef-irc.org/article/1953-gender-responsive-age-sensitive-social-protection-a-think-piece-series.html> (accessed 2 December 2022).

185 SD Peterson 'Education of refugees in Uganda: Relationships between setting and access' Refugee law project working paper 9.

age in Kampala do not attend school, and fewer than 10 per cent of refugee students in Uganda are enrolled in secondary school.<sup>186</sup>

Consequently, the inability to ensure that refugee women and girls residing in Kampala acquire quality education, despite the extensive education-related, legal and policy provisions that Uganda has adopted, demonstrates a lack of legal and political will to protect the education-related rights of refugee women and girls. Beyond the need to implement the extensive laws outlined above, the relevant stakeholders, including the Ministry of Education, the Ministry of Gender, Labour and Social Development and the UNHCR, should set up, equip and support government schools in the areas where refugees predominantly reside. Likewise, strategies should be devised to address the factors that lead to high school drop-out rates, including early marriages, teenage pregnancies, a failure to pay school fees and the challenge of balancing house work with school work, especially in the case of refugee women and girls.

#### 4.6 Access to health care, including sexual and reproductive health

The right to health must be enjoyed without discrimination on the grounds of race, age, ethnicity or any other factor.<sup>187</sup> The realisation of the right to health is essential and dependent on the realisation of other human rights such as food, housing, employment, education, information and participation.<sup>188</sup> According to the 1951 UN Refugee Convention, refugees should have access to the same or similar health care as host populations.<sup>189</sup> Section 28 of the Refugees Act 2006 accords refugees rights to health care in line with international standards. Principle 27(1) of the Guiding Principles on the human rights of all migrants, refugees and asylum seekers sets out that every refugee has the right to enjoy the best attainable state of physical and mental health.<sup>190</sup> Principle 27(2) also stipulates that states shall take all necessary measures to reduce maternal mortality, still birth rate and infant mortality for the healthy development of the refugee child and mother.<sup>191</sup>

---

186 InterAid *Socio-economic baseline survey for urban refugees in and around Kampala* (2009) 11.

187 N Mulznieks 'Protect women's sexual and reproductive health and rights' 27 August 2016, <https://www.coe.int/en/web/commissioner/-/protect-women-s-sexual-and-reproductive-health-and-rights> (accessed 12 May 2023).

188 As above.

189 Art 28 Refugees Act 2006.

190 Guiding Principles (n 131).

191 As above.

However, refugee women and girls are not always in a position to adequately enjoy the health-related rights that are stipulated above, due to several reasons. Refugee women and girls often do not have reliable access to health care or reproductive healthcare services in transit and destination areas.<sup>192</sup> This is often attributed to factors such as the lack of health information or education, a lack of social networks, a fear to access health services due to their residence status being in question, which could lead to deportation or other repercussions.<sup>193</sup> The lack of vital sexual and reproductive healthcare services such as contraceptives, treatment for sexually-transmitted infections and diseases, threatens the lives of refugee women and girls.<sup>194</sup>

According to IOM UN migration, only 43 per cent of the refugee population in the slums of Bwaise and Kabalagala, predominantly comprising Ethiopians and Sudanese, have access to government health centres and, by extension, access to healthcare services.<sup>195</sup> Refugee women and girls face a series of challenges while trying to access healthcare services, including long travelling distances to healthcare facilities and underequipped facilities that offer minimal services in terms of human and medical resources.<sup>196</sup> Furthermore, due to their less than ideal living conditions, refugee women and girls are often prone to communicable diseases such as hepatitis, tuberculosis and HIV, which often require timely and adequate medical attention, which often is not readily available.<sup>197</sup>

Refugee women and girls, especially those in lower-skilled employment such as domestic service work, often have limited access to preventive healthcare and sexual health services, gynecological care and maternity care as well as antiretroviral treatment due to their often precarious residence status and lack of access to national health or insurance schemes.<sup>198</sup> Due to economic frustration and difficulties with affording food, proper housing and medication, refugee women and girls sometimes resort to commercial sex work

---

192 N Davidson and others 'Access to preventive sexual and reproductive health care for women from refugee-like backgrounds: A systematic review' (2022) 403 *BMC Public Health* 22.

193 As above.

194 UNGA (n 117).

195 MMA Kagaba 'Rapid assessment on service available in the slums of Bwaise and Kabalagala' *IOM UN Migration* October 2018, Rapid assessment on services available in Bwaise and Kabalagala slums.pdf (accessed 10 March 2024).

196 As above.

197 As above.

198 As above.

as a mechanism to fill the economic gap.<sup>199</sup> Such risky behaviour makes them vulnerable to contracting sexually-transmitted diseases, including HIV.<sup>200</sup>

In addition, a study by Roe revealed that women and girls who are forced to migrate as a result of conflict or war develop trauma that leads to a psychological disorder called post-traumatic stress disorder.<sup>201</sup> The refugee women and girls who have moved to Kampala suburbs from the DRC, South Sudan, Somalia and Ethiopia have done so as a result of war-related consequences, including sexual and gender-based violence, the destruction of their homes and villages, and the loss of family and loved ones.<sup>202</sup> These physical and psychological conditions usually go untreated due to a lack of adequate psychiatric care and services and may lead to more adverse health consequences. Therefore, the fulfilment of the health rights of refugee women and girls is contingent upon ensuring their access to healthcare services, including sexual and reproductive health, psycho-social support and comprehensive sexual education.

#### 4.7 Violence, security threats and lack of access to justice

Violence or insecurity is another issue that refugee women and girls face at all stages of the migration process, whether at home, in transit or in the Kampala suburbs and slums where they end up settling. Article 17 of the Convention on Migrant Worker Rights stipulates that migrant workers and members of their families, detained or imprisoned in any manner whatsoever, in the state or region to which they migrated, must enjoy the same rights as the nationals of those states.<sup>203</sup> Article 10 of the Convention provides that no migrant workers or members of their families shall be subjected to torture or other cruel, inhumane or degrading treatment or punishment.<sup>204</sup> Article 18(2) provides that migrant workers and members of their families accused of a crime have a right to be presumed innocent until proven guilty under the law.<sup>205</sup> Article 16(1) of the 1951 UN

199 AC Schyler and others 'Mobility among youth in Rakai, Uganda: Trends, characteristics and associations with behavioural risk factors for HIV' (2017) 12 *An International Journal for Research, Policy and Practice* 8.

200 As above.

201 S Bhandari 'Post-traumatic stress disorder (PTSD)' 31 August 2022, <https://www.webmd.com/mental-health/post-traumatic-stress-disorder> (accessed 2 December 2022).

202 MV Matin, AS Sancha & MJ Canto 'Refugee women with a history of trauma: Vulnerability in relation to post-traumatic stress disorder' 29 April 2021, <http://www.ncbi.nlm.nih.gov/pmc/articles/PMC8125581/> (accessed 2 December 2022).

203 Art 17 ICMW.

204 Art 10 ICMW.

205 Art 18(2) ICMW.

Refugee Convention Relating to the Status of Refugees states that a refugee shall have free access to the courts of law on the territory of all contracting states.<sup>206</sup> The Refugee Act of Uganda 2006 stipulates that a refugee shall have free access to courts of law, including legal assistance under applicable laws of Uganda.<sup>207</sup> Article 33 of the Refugees Regulation 2010 states that at the hearing of the appeal, the appellant shall be given a fair hearing with regard to rules of natural justice.<sup>208</sup>

These provisions are often starkly removed from the lived realities of refugee women and girls. Gender-based violence or conflict-related sexual violence can force women and girls to migrate from one country to another within the East-African region.<sup>209</sup> However, during transit or at their destination, they are often subjected to even more violence and exploitation, and young refugee girls and women are often at greater risk compared to boys of being trafficked, or experience sexual exploitation.<sup>210</sup> In most cases, refugee women and girls fall victim to theft from 'con men' even before they reach their destination. Some are sexually assaulted or physically abused, exposing them to sexually-transmitted diseases or other injuries.<sup>211</sup>

Reports often record higher rates of domestic violence in poorly-resourced areas of Katwe, Bwaise and Kasubi, where the majority of the refugee women and girls tend to reside.<sup>212</sup> In Katwe slum, for instance, physical insecurity is a challenge in the Congolese refugee community and sexual and gender-based violence is rife. Refugee women and girls are sometimes obliged to engage in 'survival sex', where they are highly exploited and susceptible to various risks.<sup>213</sup> Likewise, according to the research conducted by IOM UN migration, Ethiopian refugees face challenges relating to incessant requests for money from police before any service is offered, extortion by police officers and crime preventers, which is manifested through giving bond to repeat criminals, and framing innocent people with the aim of extorting money from them.<sup>214</sup>

206 Art 16(1) 1951 Refugee Convention.

207 Refugees Act 2006 (n 125).

208 Art 33 Refugees Regulations 2010 Uganda.

209 M Temin and others 'Girls on the move: Adolescent girls and migration in the developing world' 7 February 2020, [https://www.researchgate.net/publication/339103903-Girls\\_on\\_the\\_Move\\_Adolescent\\_Girls\\_Developing\\_World](https://www.researchgate.net/publication/339103903-Girls_on_the_Move_Adolescent_Girls_Developing_World) (accessed 2 December 2022).

210 As above.

211 As above.

212 AJ Abdirashid 'Poverty and domestic violence in Kisenyi, Kampala Uganda' unpublished Master's dissertation, Kampala International University, 2019 80.

213 Kigozi (n 91).

214 Kagaba (n 195).



Relatedly, refugee women and girls face security threats when traveling to and from their work using public transport.<sup>215</sup> The more these women are involved in roles outside their homes, the more they are targeted for various kinds of assaults as they are often perceived to be vulnerable and are often unprotected by the formal system.<sup>216</sup> Furthermore, when their rights are violated, there often is a lack of access to timely justice.<sup>217</sup> When they migrate to poorly-resourced urban areas, they do not have access to lawyers due to a lack of financial resources and information on legal and other services, limited knowledge on legal frameworks, language barriers and a lack of trust in law enforcement officers.<sup>218</sup> Findings further revealed that limitations and a lack of confidence in police and judicial systems are a common concern in situations regarding women migrants' rights.<sup>219</sup>

An important aspect related to human rights protection for refugee women and girls, especially victims of violence, is ensuring their effective access to justice.<sup>220</sup> Upon ratifying the Covenant on the Rights of Migrant Workers on 14 November 1995, Uganda entered a reservation stating that '[t]he Republic of Uganda cannot guarantee at all times to provide free legal assistance in accordance with the provisions of article 18 paragraph 3(d)'.<sup>221</sup> While this reservation is understandable in the face of limited resources, it should not be an encumbrance to ensure access to effective legal remedies for refugee women and girls. Particular attention should be paid to refugee women and girls with disabilities, who may face additional barriers that prevent them from reporting violence to the police and from receiving adequate protection.<sup>222</sup>

According to the Hill research on justice needs in Uganda, refugee women and girls experience difficulties in resolving justice

---

215 *Habitat for Humanity* (n 160).

216 As above.

217 P Prettitore & S Okoro 'Measuring the gender justice gap' 21 June 2018, <https://www.brookings.edu/blog/future-development/2018/06/measuring-the-gender-justice-gap/amp/> (accessed 2 December 2022).

218 'Strengthening police responses to gender-based violence crucial in lead up to generation equality forum in Paris' *UN Women* 25 May 2021, <https://www.unwomen.org/en/news/stories/2021/5/news-strengthening-police-response-to-gender-based-violence> (accessed 2 December 2022).

219 As above.

220 N Muiznieks 'Human rights of refugee and migrant women and girls need to be better protected' 7 March 2026, <https://www.coe.int/sv/web/commissioner/-/human-rights-of-refugee-and-migrant-women-and-girls-need-to-be-better-protected> (accessed 10 January 2024).

221 <https://treaties.un.org/doc/Publication/MTDSG/Volume%20I/Chapter%20IV/IV-13.en.pdf> (accessed 25 July 2023).

222 As above.

problems.<sup>223</sup> The study also found the justice system complex to navigate, expensive and, in many cases, incapable of producing fair outcomes.<sup>224</sup> The poor and vulnerable are the primary victims of marginalisation, discrimination, exclusion and exploitation, which further exacerbates their situation, leading to extreme forms of poverty and vulnerability.<sup>225</sup> The poor and vulnerable persons, already faced with difficulties in several ways, including illiteracy, interacting with the legal procedures and their adversarial nature is a daunting task.<sup>226</sup> Equally, many refugee women and girls are poor and vulnerable, with the result that they often are not in position to afford the services of lawyers.<sup>227</sup>

Therefore, access to justice is a vital component for the full integration of refugee girls and women in the communities where they decide to settle. In order for this access to be realised, there is a need to ensure that the laws and policies that have been outlined above are fully implemented. This also entails ensuring access to affordable, gender-sensitive legal remedies and compliant mechanisms when refugee women and girls rights are violated, as well as providing financial, medical and psychiatric assistance to victims of trafficking, domestic abuse and sexual violence.

## 5 Conclusion

In its attempt to investigate the implementation of refugee laws and policies, the article focuses on refugee women and girls who end up residing in Kampala district. Uganda has been heralded for having a favourable refugee legal and policy system. Indeed, from a rights perspective, the Refugee Act 2006 provides a wide mandate of rights for refugees, which is a commendable step. However, the article identifies a series of challenges or hindrances as far as the implementation of refugee laws and policies towards the realisation of the rights of refugee women and girls is concerned. One of the prevalent challenges is the contradiction, non-uniformity and the lack of clarity of refugee laws, which presents a challenge with their implementation. This is further compounded by the lack of awareness

---

223 'Press release: Call on government to fast track the passing of the draft national legal aid policy and legal aid law' *Legal Aid Service Provider's Network* 5 May 2016, [https://www.laspnet.org/index.php?option=com\\_content&view=article&id=423:p-release-call-on-governmnet-to-fast-track-the-passing-of-the-draft-national-legal-aid-policy-and-legal-aid-law&catid=89&Itemid=895](https://www.laspnet.org/index.php?option=com_content&view=article&id=423:p-release-call-on-governmnet-to-fast-track-the-passing-of-the-draft-national-legal-aid-policy-and-legal-aid-law&catid=89&Itemid=895) (accessed 2 December 2022).

224 As above.

225 As above.

226 As above.

227 As above.

or confusion regarding the appropriate legal procedures, by those charged with their implementation, which leads to practices that infringe upon the rights of refugee women and girls.

Other identified challenges include a push-back against the increase in women's autonomy and decision making; inadequate or sub-standard housing; challenges in accessing education; difficulties faced when accessing adequate healthcare services, including sexual and reproductive healthcare services; bottlenecks in being employed gainfully characterised by their predominance in the informal sector; low skills, and so forth. Additionally, refugees' civic participation is limited to non-political participation as well as the confusing nature of the conditions that need to be in place for them to transition to residents or citizens. With regard to freedom from violence, it is highlighted that refugee women and girls often are at risk of gender-based violence in transit and in the areas where they work or stay. Among the most pervasive forms of violence is sex trafficking, sexual violence for women and girls who work in domestic spaces, worsened by a lack of access to affordable, timely, gender-sensitive forms of justice.

Therefore, it is suggested that various mechanisms need to be put in place in order to ensure that the highlighted rights are realised, for women and girls who decide to move away from other countries in the region or the camps or settlement areas into Kampala district. Some of the measures include addressing the fragmentation as well as the contradictions in Uganda's laws in line with refugees, such as the UCICA, the Refugee Act, the Employment Act, and others. Related to this, the various stakeholders should clarify the conditions by which refugees who meet the obligations, transition to residents either by naturalisation or citizenship and also remove the systemic barriers and delays that often hinder this process.

Regarding employment, it is recommended that targeted skills trainings are implemented. It is further suggested that laws regarding minimum wages paid to domestic workers and their protection should be effectively implemented. In line with living conditions, the need for proper urban planning, including safe housing, access to clean and safe water and proper garbage disposal is emphasised. In order to realise the right to health, it is forwarded that the Ministry of Health and relevant stakeholders should ensure access to affordable healthcare facilities and services, including sexual and reproductive healthcare services for refugee women and girls.

In line with physical and sexual abuse, it is recommended that the relevant stakeholders take necessary measures to prevent, investigate,

prosecute and sanction human rights violations and abuses against refugee women and girls. It is further recommended that access to affordable education for refugee women and girls be prioritised. Furthermore, strategies should be devised to address the factors that lead to high school drop-out rates, including early marriages, teenage pregnancies, a failure to pay school fees and the challenge of balancing house work with school work, especially in the case of girls. In the same vein, it is recommended that refugee women and girls should have equal access to legal remedies and compliant mechanisms when their rights are violated. Finally, refugee women and girls should be at the centre of the development, implementation and review of immigration laws, policies and regulations to ensure that they meet their specific needs.