

# Viable Justice: Survivors of Sexual and Gender-Based Violence and/or Torture Amongst South Sudanese Refugees Living in Settlements in Northern Uganda

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## Statement and Purpose of the Paper

International responses to sexual and gender-based violence (SGBV) and torture are often framed by international conventions which centre criminal justice approaches. A criminal justice system is complex and involves government agencies and institutions of law enforcement that comprise police, lawyers, courts, sentences and punishment. Criminal justice systems usually require high levels of proof often involving scientific evidence and expert opinion, they can therefore be time consuming and expensive. For many refugees who have experienced violations of their human rights, and are now living in refugee settlements in a foreign country, access to, and the process of seeking criminal justice through such a system is impossible.

As a response to such situations transitional justice has been proposed to allow those who have been victims of systematic or widespread violations of human rights to be heard and to get some closure. Transitional justice is based on four fundamental obligations: taking reasonable steps to prevent human rights violations; to conduct investigations of violations when they occur; to impose suitable sanctions on those responsible for the violations; and to ensure reparation for the victims of the violations (ICFJ, 2009, 2). Transitional justice therefore focusses on the victims of such atrocities being recognised and heard.

The tools of transitional justice can be a mixture of the following that are deemed suitable and acceptable to those affected: criminal prosecution of the those in high office who are seen as perpetrators or encouraging/inciting such acts; truth commissions, often official state bodies; reparation programmes usually state-sponsored initiatives that 'help to repair the material and moral damages of past abuse' (ICTJ, 2009, 1); gender justice for males and females who have survived SGBV; as well as reforming the security system 'from instruments of repression and corruption into instruments of public service and integrity'. (ICTJ, 2009, 1). However whilst transitional justice can be seen to have been successful in a number of nation state contexts, such as South Africa, Rwanda and The Gambia, there is little evidence that transitional justice can be successfully implemented in refugee settlements in alien countries, where the atrocities have occurred in a different jurisdiction or country.

Many refugee survivors of SGBV and/or torture, recognise that criminal and transitional justice approaches are not practical, achievable or even suitable to their own circumstances. Instead they ask for social justice to be delivered. Social justice is understood to be justice within a state or society in relation to a fair balance in the distribution of wealth, opportunities and privileges within a society where an individual's rights are recognised and protected (Duigan, 2023). In the context of refugees living in refugee settlements this would include security, shelter, food, clean water and safe sanitation, access to education as well as health services and the opportunity to make a livelihood.

Using a survivor-focussed justice lens (GWI, 2021, McQuigg, 2017 ) combined with a trauma informed approach, this research investigated the experiences of South Sudanese men and women refugee survivors of SGBV and/or torture living in refugee settlements in Northern Uganda as well as service providers and other stakeholders.

The aim of the research was to listen to refugee survivors of SGBV and/or torture and explore what justice meant to them in exile. We argue that what the survivors who participated in this research wanted was 'viable justice'. That is justice that is survivor-centred, and includes elements of traditional, transitional and gender justice, underpinned by social justice. By including the voices of both men and women survivors of SGBV and/or torture and getting the views of service providers and other stakeholders, this paper offers an alternative form of justice to the internationally accepted types of justice, which offer little relevance or restitution to refugees, particularly where the crime has been committed in a different country and where there is little chance that perpetrators will be prosecuted in a formal court of law.

## Background and Context Setting

At the end of 2020 there were around 84.2 million refugees worldwide because of persecution, conflict, violence, and human rights abuses. As of 30 June 2020, Uganda was hosting the largest number of refugees in Africa and was the third largest refugee-hosting country in the world. At that time the country offered protection to 1,425,034 refugees and asylum-seekers from over thirty countries, representing more than 3 per cent of its total population (UNHCR, 2021a). Uganda stands out as the largest UNHCR refugee operation in Africa (UNHCR, 2021b).

Uganda's prominent role as a long-term refugee hosting country, and its perceived generous approach to welcoming refugees, has received positive international attention (Goldstein, 2018). Under the Ugandan government's approach, refugees are located not in camps but in planned refugee settlements, which have managed population sizes, with more permanent dwellings and greater freedom of movement than camps (Schmidt, 2003). The Ugandan government allocates plots of land within settlements where refugees can build a home and cultivate crops. Each household receives cash, food rations, or a combination of both, which are distributed by the World Food Programme. Of the total refugee population living in Uganda, 94 per cent reside in planned refugee settlements in the border areas. Of these 62 per cent are from South Sudan and have settled in the northeast region of Uganda.

Goal 16 of the SDGs is to '*promote peaceful and inclusive societies for sustainable development by providing access to justice for all and building effective accountable and inclusive institutions at all levels.*' SDG 16.3 commits the international community to 'promot[ing] the rule of law at the national and international levels' and to ensuring 'equal access to justice for all' by 2030. In the light of the overarching aim of the SDGs to 'leave nobody behind,' the access-to-justice needs of refugees require special attention if Goal 16 is to be achieved, particularly in relation to refugee survivors of SGBV and torture who constitute a marginalised group. However, as discussed by Ntungwerisho (2019) in relation to South Sudanese refugees in Uganda, refugees are faced with a different unfamiliar justice system and laws unlike those in their home country. Ignorance of the law and of their rights thus can become an impediment to their having access to their internationally validated human rights. Maybe partly due to this 'strange new' legal system refugees, tend to prefer their traditional justice systems and transitional justice to formal courts of law (Jjuuko, 2018). It is a complex situation and often refugees have to resort to social and transitional justice rather than the formal justice system.

Despite all the conventions and international agreements, the evidence suggests that access to justice is limited for refugee survivors of SGBV and torture (Manuel and Manuel, 2018;

Ntungwerisho, 2019). Manuel and Manuel (2018) cite the need to attain the Sustainable Development Goal 16.3's commitment to equal access to justice for all by 2030. The study by Ntungwerisho (2019) with refugees in Northern Uganda argued the justice system was not flexible enough to respond to their specific needs as a vulnerable group and recommended elements of transitional justice to address their needs. Our study does this with a particular focus on refugee survivors of SGBV and torture. The existing gaps and complexities in access to justice for women and men refugee survivors specifically of SGBV and torture was a compelling argument for conducting the current research. This investigated the social justice impact and needs of South Sudanese refugees displaced and living in Northern Uganda.

### *International and Regional Commitments concerning Refugees and SGBV*

The issue of SGBV was raised by the UN Security Council in Resolution 1325 on Women and Peace and Security in 2000 (SC Res 1325, UN SCOR, 4213th mtg, UN Doc S/RES/1325, 31 October 2000). This UN Resolution emphasises taking specific measures to protect women and girls from gender-based violence, particularly rape and other forms of sexual abuse. The updated 2003 UNHCR Guidelines (Geneva: UNHCR, 2003), expanded the definition of SGBV as "violence that is directed against a person based on gender or sex. It includes acts that inflict physical, mental or sexual harm or suffering, threats of such acts, coercion and other deprivations of liberty." These 2003 UNHCR Guidelines include any harmful act that is perpetrated against a person's will, and that is based on socially ascribed gender differences between males and females. Accordingly, the term SGBV includes but is not limited to acts of sexual violence, including sexual exploitation and/or abuse; forced prostitution; domestic violence; trafficking; forced/early marriage; and harmful traditional practices such as female genital mutilation, honour killings and widow inheritance. As the 2003 Guidelines note, this "expanded definition of sexual and gender-based violence used by UNHCR and implementing partners" is "based on Article 1 and 2 of the UN General Assembly Declaration on the Elimination of Violence Against Women (1993) and Recommendation 19, paragraph 6 of the 11th Session of the CEDAW Committee" (Geneva: UNHCR, 2003). Further, the 2003 UNHCR Guidelines define the health consequences of SGBV as all adverse physical and psychological outcomes related to this form of violence based on gender.

In 2016 UNSCR (2016) was the first UN agency to recognise that men and boys are also subjected to SGBV. This includes some forms of sexual violence committed on males with the explicit purpose of reinforcing gender inequitable norms of masculinity and femininity, for example, sexual violence committed in armed conflict aimed at emasculating or feminising the enemy (Simon-Butler and McSherry, 2019). It is now recognised that SGBV perpetrated against both women and men is widespread in most conflict situations, including in South Sudan.

There are specific guidelines relating to SGBV in humanitarian settings. The Inter-Agency Standing Committee (IASC) is a forum consisting of both UN and non-UN humanitarian agencies, representing a substantial proportion of humanitarian stakeholders operating internationally with a corresponding significant responsibility for populations in humanitarian crisis settings. In 2015, IASC updated its Guidelines for Gender-Based Violence Interventions in Humanitarian Settings, with the release of its Guidelines for Integrating Gender-Based Violence Interventions in Humanitarian Action: Reducing Risk, Promoting Resilience and Aiding Recovery (2015). These Guidelines were "designed for use by humanitarian

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3 organisations, including UN agencies, non-governmental organisations (NGOs), community-  
4 based organisations (CBOs), and government authorities operating in emergency settings at  
5 international, national, and local levels.” These IASC Guidelines aim to educate the  
6 humanitarian community on the prevalence and nature of SGBV in conflict and emergency  
7 situations as a human rights issue requiring urgent attention. They recommended specific  
8 actions to incorporate in preventing and responding to SGBV within emergency preparedness,  
9 response, and post-emergency planning. The 2015 IASC Gender-Based Violence Guidelines  
10 accord attention to individuals who identify as Lesbian Gay and Bisexual Transgender and  
11 Intersex (LGBTI) populations and to men and boys, both as survivors of sexual violence and  
12 as agents of change. Nevertheless, the Guidelines focus largely on the problem of violence  
13 against women and girls, as this is at the centre of GBV work. Ward (2016: 297) argues:

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17 ‘What is required in both spirit and deed is partnership by those whose focus is on the  
18 needs of men and boys and/or LGBTI populations generally with those working on  
19 violence against women and girls. Separate and specific work on violence against men  
20 – and on men’s experience in patriarchy – is not only important in terms of addressing  
21 the needs of men, but can also add an important dimension to understanding how to  
22 create a more peaceful world for all. Separate and specific work on homophobia and  
23 violence against gender non-conforming people is also critical to supporting improved  
24 rights for all.’

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27 Dolan (2016: 634) argues further that:

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30 ‘The resultant 2015 GBV Guidelines enable the continued denial of resources and  
31 access to services for male and LGBTI survivors of sexual violence – a denial which is  
32 itself a form of GBV and an additional harm.’

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34 UNHCR’s (2012) guidance on working with men and boys survivors of gender-based violence  
35 in forced displacement further highlights the need to engage men.

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37 Lilleston et al. (2014) argue that while the IASC Guidelines do not establish a binding set of  
38 SGBV service delivery standards, they seek to achieve general international consensus among  
39 SGBV service providers and advocates around core programme design and service delivery  
40 principles that should guide SGBV responses and mitigation programming. These include  
41 creating safe spaces for women, engaging the community in programme design and  
42 implementation, conducting safe referrals, utilising a survivor-centred approach, maintaining  
43 clients’ confidentiality, and ensuring accessibility of services (Lilleston et al. 2014). In 2015,  
44 United Nations agencies called for a co-ordinated set of essential services, including health,  
45 justice and policing, and social services for survivors of SGBV. This included a functioning,  
46 confidential referral system between providers with the confidentiality of referrals being  
47 ensured, and the provision of a regularly updated resource list of organizations, focal points,  
48 and services for SGBV prevention and response which is made available to organizations and  
49 community members. Although these guidelines cover men and child survivors as well, the  
50 article focuses solely on women and girl refugee survivors and there is a lack of discussion of  
51 safe spaces for male refugee survivors including their access to justice (UNHCR, 2019). The  
52 International Rehabilitation Centre for Torture Victims (IRCT, 2017) recommend a holistic  
53 health-based approach to the rehabilitation of torture survivors who UNHCR also state are  
54 prioritised for re-settlement. The UN Global compact emphasises to establish effective  
55 mechanisms to identify torture victims through a combination of 1) initial screening of all  
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3 asylum seekers for torture trauma through tools such as PROTECT; 2) clinical assessments by  
4 health professionals experienced in working with torture trauma; and 3) a full forensic  
5 examination of their claims of past torture in accordance with the standards in the Istanbul  
6 Protocol where this is relevant for the determination of asylum status.

### 7 8 9 *Ugandan Law and Refugee Policies: Access to Justice*

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11 The Constitution of Uganda grants protection from discrimination for all persons within the  
12 territory of Uganda including refugees. This is reinforced in the 2006 Refugees Act which  
13 states that:

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15 ‘A recognised refugee shall, subject to this Act, the OAU Convention and the Geneva  
16 Convention, [...] be entitled to fair and just treatment without discrimination on grounds  
17 of race, religion, sex, nationality, ethnic identity, membership of a particular social  
18 group or political opinion.’  
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21 Uganda has enacted two pieces of legislation, the 2006 Refugees Act and the 2010 Refugee  
22 Regulations, which reflect the government’s commitment to current international standards of  
23 refugee protection (UNHCR and World Bank, 2016). These Acts regulate all refugee-related  
24 issues and are overseen by Uganda’s Office of the Prime Minister (OPM).  
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27 Under the 2006 Refugee Act and the 2010 Refugee Regulations, refugees were allowed relative  
28 freedom of movement, equal access to basic services, such as primary education and health  
29 care, and the right to work and establish a business. The Refugees Act 2006 and its 2010  
30 Regulations, recommended changes in the legislation to support freedom of movement for  
31 refugees and to create mechanisms to identify refugees who were vulnerable. Under section  
32 29(h) refugees have the right to free access to courts of law, including legal assistance under  
33 applicable laws of Uganda, and under section 33(1) with affirmative action being taken to  
34 protect women refugees from gender discriminatory practices. However, the 2006 Act does not  
35 include specific provision for providing access to justice for refugee survivors of SGBV and  
36 torture.  
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40 The law and policy framework for refugee protection in Uganda is comprehensive and  
41 consistent with international and regional standards. Building on these efforts, the Government  
42 adopted implementation of the GCR and its CRRF in 2017-2018. The GCR/CRRF National  
43 Plan of Action and the United Nations inter-agency Refugee Response Plan (RRP) set out the  
44 national preparedness framework to respond to increased or new refugee inflows in ways that  
45 minimize short- and medium-term socioeconomic impacts on hosting regions. While the CRRF  
46 National Plan of Action focused on advancing longer term/development outcomes for refugee  
47 and host communities, the Refugee Coordination Model (RMC) covered humanitarian  
48 interventions, refugee protection and emergency preparedness and response and is co-led by  
49 the OPM and UNHCR. As such, the RRP contributes to the implementation of the GCR/CRRF  
50 and complements the National Plan of Action and the comprehensive sector response plans  
51 (UNHCR, 2021a).  
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56 Alongside the National plan of Action, the Ugandan government’s Self-Reliance Strategy,  
57 implemented since 1999, aims to transform refugees into agents of self-development who  
58 become self-reliant within four years of entering the country. In theory, the Self-Reliance  
59 Strategy seeks ‘to integrate services provided to refugees into existing public service structures  
60 and make refugee settlements self-reliant by allocating land to refugees and allowing them free

access to government health and education services' (Hovil, 2018). More recently, the 2016 Refugee and Host Population Empowerment (ReHoPE) strategic framework brings together a wide range of stakeholders and updated the SRS, outlining a model to support resilience and self-reliance for both refugees and host communities by integrating refugees in national development plans (ReHOPE Strategic Framework, 2017: vii). However, there is no specific attention in the article to the rights and justice for refugee survivors of SGBV and torture.

Access to justice is a challenge faced by refugees in Northern Ugandan refugee settlements. Various policies are in place to prevent and deter gender-based violence (SGBV), which apply across the country to refugees as well as citizens. These include the Penal Code, the 2010 Domestic Violence Act, the 2010 Female Genital Mutilation Act and the 2016 Elimination of Gender Based Violence Policy. In practice however, refugees and asylum-seekers report incidents of discrimination, for instance in relation to gender-based violence, ethnicity, disability and diverse sexual orientation and gender identities. The issue that national laws are discriminatory and penalise same-sex acts regardless of questions of consent, is central to male survivors' and their fight for justice (McMahon, 2017) and may account for the low engagement by male survivors of SGBV with health and justice services.

These challenges have been recognised by UNHCR who have incorporated the support of community-based approaches for combating SGBV and essential service delivery. Importantly it also includes achieving integration of justice facilities into district and line ministry management systems (UNHCR, 2018). Kawaguchi (2020) in a working paper explored help-seeking barriers for South Sudanese refugee survivors of GBV in Uganda and concluded that community leaders and churches were the primary source of support. However, the study did not include refugee survivors of torture.

Studies of the views of refugee users of national justice systems are rare and therefore the aim of this paper is to explore how South Sudanese survivors of SGBV and/or torture living in refugee settlements in Northern Uganda access or secure 'survivor-focussed justice' using a survivor-focussed approach and to examine what services are available to them and if they are gender and culturally sensitive.

## Research Methodology

The research adopted a survivor-centred and trauma-informed approach. It utilised qualitative methods to investigate the justice aspects of South Sudanese refugee experiences in South Sudan, on their journey to Uganda and after arrival in refugee settlements in Northern Uganda. The main objectives were:

1. To analyse the justice needs of refugees who have survived SGBV and/or torture from their own and service providers' perspectives.
2. To document how these needs are dealt with and addressed using a survivor-focussed approach.

The research explored how South Sudanese refugee survivors of SGBV and/or torture living in Northern Ugandan Refugee Settlements accessed 'justice.' It also investigated the provision of justice related services available to refugee survivors of SGBV and/or torture to examine if, and how, they were able to contribute to 'survivor-focussed justice' pathways. The research adopted a survivor-focussed gendered approach and included the narratives of both men and

women survivors, who were asked to self-report their experiences of SGBV and/or torture and their access to services and justice.

Survivor-centred approaches acknowledge that SGBV survivors know their situations and needs best, which vary based on their identities and contexts. Survivor-centred practices centralize survivors' autonomy and require that researchers and practitioners collaborate with survivors to understand their unique needs, contexts, and means of coping in order to provide relevant information for survivors to make their own informed choices (Nichols, 2013). Research has demonstrated the benefits of implementing survivor-centred practices, including survivors' increased satisfaction with systems, fewer depressive symptoms, and greater quality of life over time (Bennett Cattaneo & Goodman, 2010). Survivors have also been found to feel more optimistic about support acquired through community resources that are tailored to their individual goals (Goodman et al., 2016). As Schulz (2021:165) has also argued in his work with Acholi male survivors, our research used a survivor-centric approach that:

'Explicitly foregrounding male survivors' experiences and views thereby leads me to revisit and reshape dominant assumptions inherent in research on the gendered aspects of armed conflict, sexual violence, and post conflict justice. For instance, my analysis of survivors' groups as spaces to exercise agency and as pathways through which justice on the microlevel can be conveyed is an immediate outcome of male survivors' views articulated during the workshop discussions and would most likely not have surfaced if interviews had been solely conducted with external service providers and so-called (often self-proclaimed) experts.'

The research also utilised a trauma-informed care approach that considered the needs of the survivor as a whole person. In the context of SGBV, trauma-informed approaches encompass six key practices: 1) promoting emotional safety for survivors; 2) restoring their choice and control; 3) facilitating connection amongst survivors; 4) supporting and enhancing their methods of coping; 5) responding to survivors' identities and contexts including systems of oppression and marginalization; and 6) building upon their strengths (Goodman et al., 2016; Wilson et al., 2015). Implementing these practices required creating a safe, welcoming environment in which survivors could share their stories and build authentic relationships with practitioners and with one another (Menschner & Maul, 2016; Wilson et al., 2015). Trauma-informed care involves identifying survivors' strengths, prioritizing their autonomy, and considering how identity and context influence survivors' experiences and needs (Menschner & Maul, 2016; Wilson et al., 2015). Trauma-informed care also importantly involves sharing power through collaborative decision-making, as well as developing opportunities for survivors to contribute and cultivate their skills to guide practice (Wilson et al., 2015).

The current research was qualitative in nature and put the voices of survivors at its centre. The survivor-centred and trauma-informed approach aimed to put the rights of each refugee survivor at the forefront of all actions and ensured that each survivor was treated with dignity and respect. This included engaging refugee survivors in all stages of the fieldwork through the active engagement of the Refugee Welfare Councils and deciding jointly how best to carry out the fieldwork. The researchers at all times maintained confidentiality and ensured the safety of the survivors, and applied survivor-centred principles of safety, confidentiality, respect, and non-discrimination

Data collection involving South Sudanese Refugee survivors of SGBV and/or torture took place in May-June 2018. It was conducted in three locations: Bidi-Bidi Refugee Settlement; Mungula and Pagirinya both part of Adjumani Refugee Settlement. These settlements were recommended by the Prime Minister's Office in Kampala which, gave permission for the research to proceed, following ethical approval by Coventry University (UK), University of Cape Town (South Africa), Gulu University (Uganda) and the Ugandan Council for Science and Technology (Uganda). Bidi Bidi is the largest and one of the oldest refugee settlements in Northern Uganda and took large numbers of South Sudanese refugees in 2016. Mungula is a much smaller established Refugee Settlement that has been giving sanctuary to South Sudanese Refugees for over twenty years. Several of the participants interviewed in Mungula had been born there or had arrived as small children. Others were more recent refugees. Pagirinya is a new Refugee Settlement that has grown significantly since the large influx of South Sudanese Refugees in 2016. It is also the settlement located nearest to the Uganda/South Sudan border. The location of the refugee settlements is illustrated in Figure 1. Bidi Bidi is in Yumbe District, with Pagirinya and Adjumani Refugee Settlements in Adjumani District. As can be seen these are the two largest Refugee Settlements in Uganda.

Insert Figure 1 here

Sixty-one SGBV and/or refugee torture survivors took part in individual or group narrative discussions including twenty men and forty-one women refugees as shown in Table 1.

Insert Table 1 here

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Women and men refugee participants were invited to be part of this research using snowball sampling using the Refugee Welfare Committees in Bidi-Bidi and Pagrinya following the recommendation of the Settlement Commanders. In Mungula the Settlement Commander advised using the Danish Refugee Council (DRC) to recruit participants. Refugees and key informants were approached, and the research explained, and a participant information sheet was given to them in English or in their local language. All the participants were 18 years of age and over and gave their informed consent. For those who were illiterate the documents were read out to them, and consent given either by thumb print or verbally recorded.

It is UNHCR policy in Northern Uganda not to settle refugees separately according to ethnicity. Thus, each refugee settlement comprised a variety of South Sudanese ethnic groups. We were advised not to ask participants to state their ethnicity for security reasons, so instead the language spoken was noted down, to ensure adequate translation services. Table 2 illustrates the numbers of men and women refugee participants speaking different languages. In total there were nine different languages spoken with the most common language being Madi, followed by Kuku and Arabic.

Insert Table 2 here

Participants were invited to participate in either individual or small group narrative discussions. Gender dynamics and cultural sensitivities were fully considered whilst preparing and carrying out the data collection. Women and men were interviewed separately to enable refugees to talk openly regarding their experiences. Care and attention was also given to the gender of the interpreter and women interpreters were used whilst women were interviewed and male interpreters for interviewing men. It was ensured by the research team that the interpreters could handle sensitive information and were comfortable translating all the details conveyed by the refugee survivors to the researchers, to avoid the reproduction of gender bias. This also maximised the building of trust, rapport and safety to enable participant's to speak openly (OHCHR, 2011; UN Human Rights Office of the High Commission, 2018). The confidentiality of participants was ensured by issuing each participant with a participant number/code. Having given informed consent, participants engaged in a narrative discussion. Discussions lasted from 45 to 90 minutes. Participants were provided with refreshments and at the end of the interview were given a small donation for travel expenses. Discussions were conducted together with an interpreter in the refugee's local language. Interpreters signed a confidentiality agreement and were also debriefed at the end of each day when they could raise any well-being concerns. The interviews were audio recorded and simultaneous notes taken. Recordings were transcribed into English and thematic analysis undertaken of the transcripts and notes.

At the conclusion of undertaking interviews in each settlement a ‘town hall’ meeting was arranged where participants and other members of the community were presented with the initial analysis, with time allocated for questions, discussion, and comments. At the end of each meeting participants were asked to compile a list of recommendations that would improve life for themselves and their families. Approximately 130 people attended across the three settlements. The opportunity to give feedback and ask questions was very much appreciated and men and women we had interviewed spoke up freely.

In addition, thirty-seven key stakeholders were interviewed that provided health and justice services to South Sudanese refugees in Adjumani and Bidi-Bidi Refugee Settlements. These included UN personnel (5), Ugandan Government Officials (12), International NGOs (8), National NGOs (5) and Refugee Welfare Council members (7) (see Table 3). Whilst most of these interviews took place in the refugee settlements (24), others took place in Yumbe Town (6) and Kampala (7).

Insert Table 3 here

### Results: Viable Justice

Four strong themes concerning viable transitional justice resulted from thematic analysis of survivor narratives. These are as follows:

- No hope of formal or criminal justice for atrocities that occurred in South Sudan.
- Insecurity and lack of confidence in transitional justice processes in Ugandan refugee settlements.
- Abuse and loss of freedom in refugee settlements.
- Lack of access to health and justice services in refugee settlements.

#### *‘No Hope of Formal or Criminal Justice’ for atrocities that occurred in South Sudan*

Refugees we spoke to reported there was “no hope of justice” for the crimes they had survived in South Sudan. Almost all survivors stated they could not seek justice in South Sudan for the atrocities they had suffered or witnessed there. This was due to the fact that an international court would need to be established to hear the crimes as most of the brutalities were either

perpetrated by government soldiers who could not be arrested or rebels who were impossible to identify, locate and charge. One male refugee in Bidi Bidi said:

*'No, these government soldiers cannot be found. No hope...In fact I know the commander of those soldiers who tortured me. It is a matter of the South Sudan government being reported to the international court.'*

Most survivors were resigned to the fact that they would not get formal justice for the crimes committed against them in South Sudan. Many stated they just wanted the opportunity to report and have the violence documented, something which had not happened when they were processed and registered with UNHCR when they crossed the Ugandan border. A man refugee interviewed in Bidi Bidi said:

*'I never reported what happened to me in South Sudan. I came here and stay. I do not know where to start or to end why I did not report this. It is too long a story... but I decided to look forward.'*

Another male refugee said he had reported the atrocities committed against him in South Sudan to the UN but:

*'At the time of registration, I explained everything, but no action was taken. They took a statement, but I have not heard nothing up to now.'*

Refugees also described the difficulties of locating perpetrators who fled and could not be located.

Justice services in the settlements included assistance in taking cases to court, protection and child safeguarding, access to justice, education regarding rights, and limited support with access to health care. The Ugandan police received training on providing justice for refugees and followed procedures for crime reporting, completed necessary paperwork and assessed the perpetrator's mental state. However, there were logistical challenges to obtaining justice for refugees, including a shortage of police officers, including women officers, lack of transport, paper, and pens to take a report and a lack of fuel for police vehicles and motor bikes.

Justice support in the refugee settlements was said to be particularly lacking for women survivors of SGBV. Although some women police officers were deployed in the settlement, this could have been improved upon to enhance the gender sensitive approach. The Courts were long distances away and it was reported that 10% of cases waited over one year to be heard. The implementation of the laws in South Sudan and Uganda regarding child marriage were causing difficulties and the police in Uganda were trying their best to educate South Sudanese that in Uganda it was unlawful for a girl under the age of eighteen to marry, as a police representative in Adjumani explained:

*'The culture differs in South Sudan...even a girl of 14 years can be married so we are trying because for us in Uganda the penal code act states if a girl has not reached eighteen years it means you have defiled her, so we are trying to educate them and tell them that they have to adapt'.*

Cultural traditions were considered important by those we spoke to in order to resolve justice issues.

Service providers reported that supervision structures were put in place by stakeholders with the aim of tackling bribery. We were informed by service providers that mobile courts were introduced in all zones in Bidi Bidi Settlement to reduce logistical challenges. Manuel and Manuel (2018) argued that a mobile court system should be adopted in refugee hosting districts, so refugees know their rights and how to demand them from a system that has the capacity to deliver on them. Further, Dolan (2019), recommended that the mobile court system would be a solution to the long distances that refugees often travel to access formal courts of law.

### *Insecurity and Lack of Confidence in Transitional Justice Processes in Uganda Refugee Settlements*

When South Sudanese refugees crossed the Ugandan border UNHCR made a policy decision to mix South Sudanese ethnic groups in the settlements. This made refugees suspicious as they felt perpetrators of atrocities were living amongst them. This sense of insecurity was particularly evident amongst men in Adjumani Refugee Settlement, Pagirinya Zone which was near the border with South Sudan. Several men recounted incidents of threats and violence, including burning of their huts, which meant they had left their family compound to hide to protect their families. Whilst some had reported the incidents to the Ugandan Refugee Settlement Commanders, they claimed a lack of protection. One man in Pagirinya, Adjumani, sums up the situation:

*'I am not feeling secure here because those people of South Sudan government they always come here visiting their families, they go back, and others come. They watch us.'*

Another male refugee interviewed in Pagirinya, Adjumani settlement who had survived abuses in South Sudan and Uganda said:

*'I am not so happy here because I am passing through some difficulty issues after I came from Sudan, Of course I have been tortured, I have been put in prison over 4, 5 times when I was in Sudan. But the time I get to Uganda, also, the same incidence followed me. They were sent from South Sudan to follow me up here in the camp, that if they got me here, they should return me back South Sudan, and if I resist, they have to do away {kill} with me.'*

Women refugees reported SGBV within the settlements and a lack of confidence in the justice response when they reported incidents. One 26-year-old woman from Bidi Bidi who was raped and threatened with a knife in the settlement explained what happened when she reported to the police:

*'When I reported to the police, we tried to look for that person. They even told me that they have arrested that person and they have taken him to prison. Up to now I don't know if the man is in prison, I don't know.'*

This incident raised the issue of protection of refugees from further acts of violence in the refugee settlement. These specific issues were raised with the camp commanders through the Refugee Welfare Councils and the refugees were informed that protection would be provided. However, the settlements lack the resources to provide protection for all those that require it.

### *Abuse and Loss of Freedom in Refugee Settlements*

Women refugee survivors were concerned about their personal security, SGBV and domestic violence within the refugee settlements. Women had also become pregnant as a result of rape and some we spoke to had been prevented from attending school as a result of the pregnancy. Although the young women we spoke to had wanted the choice of an abortion their parents made them keep the child. Service providers informed us that in Bidi-Bidi Refugee Settlement that all such cases took place within the settlement. Threats came not just from husbands, but also male refugees and the Ugandan community. A woman interviewed in Adjumani regarding the situation in the settlement stated:

*'Yes, it {SGBV} can happen in the bush when collecting wood and it can happen ... when we are vulnerable ...when they know you are just a single mother, and they rob and do anything they want to you. Somehow, they force you in the house. They come, they cut [the shelter] they steal from you, and they can do anything, they even rape. A man entered at night in my room, I was sleeping and he 'slept' on top of me.'*

There was a real concern by mothers we interviewed that their daughters were being kidnapped and forced into child marriage back in South Sudan by their husbands and other male relatives. The Ugandan authorities were aware of this and had implemented an awareness raising campaign in the settlements. They also tried to protect girls when they became aware of a case. At a town hall dissemination workshop held in Adjumani refugee settlement a participant recounted that:

*'Children are being abducted from the settlements...somebody is trying to take the 13-year-old daughter of my deceased sister who stated in her will that the child should be looked after by me. My sister married a Dinka and had a son by him who died. Her husband killed my sister in revenge as he blamed her for the son's death. Now her husband wants to take the 13-year-old girl for marriage. Such situations are common in South Sudan and there are lots of people in Protection Unit in Adjumani. Habits are brought from South Sudan into the settlement including for revenge. This is a characteristic that takes time to change.'*

In terms of access to justice, a meeting was held within the settlement to raise the issue this woman was facing, and she was informed that protection would be given to her.

#### *Lack of Access to Health and Justice Services in Refugee Settlements*

The main providers of health services cited by survivors were government health centres and services provided by non-government organisations (NGOs) including the International Red Cross and Catholic Relief Services. When survivors had access to health services it was predominantly for women who had experienced SGBV, pregnant women or for those with minor ailments or injuries. No men we spoke to had sought testing or treatment for SGBV, including rape. All the men interviewed stated they had not reported their injuries officially and when they went to the health centres for treatment were only given paracetamol. A woman interviewed in Bidi Bidi Refugee Settlement said she attended the health centre after being raped and said:

*'When we go to the hospital, we only get paracetamol. Like the other time, I had pain in my stomach, but I only received paracetamol.'*

One man interviewed in Pagirinya; Adjumani Refugee Settlement recounted his experience:

*'When I came here, I went to health centre, and they gave me some paracetamol for the kidney [damaged during torture] but it is not enough. No scan. Just paracetamol.'*

Several men interviewed mentioned they were worried if they discussed physical injuries, they would be accused of being rebels, as this male refugee from Bidi Bidi had experienced:

*'When this war started in July 2016 I was moving from village where I have my first wife to another where I had my second wife and between those places to where my business was based. In August 2016, it became worse. On the way, I could see these rebel soldiers, faces masked, sometimes stopping you asking questions and sometimes killing people. So, our movements were limited. One day when I was coming from my business place, the government arrested me, accusing me that I was supporting these people.'*

Many men participants had bullets embedded in their limbs and claimed there were no services in the refugee settlements to remove them. Another male refugee in Bidi Bidi Refugee Settlement said:

*'The treatment is not very good here because the health system is out of date, I was taken to Gulu and one of my ribs was broken and nothing was done. There is no proper medication. So, I would like to be taken to another hospital or for doctors to help me.'*

Specialist treatment was available in government hospitals in towns (Adjumani and Yumbe) and cities, some 6 hours' drive away (Gulu). For specialist services some refugees were referred to Kampala, a 12-hour drive away. All survivors, in need of particular care in hospital, such as diagnostic tests; X-rays, scans, and surgery had been asked for money before receiving treatment. Most reported they had to pay their own transport costs to and from hospital and for services, they also had to provide their own food and medicines. A woman in Mungula, Adjumani Refugee Settlement explained the difficulties accessing the treatment she required within the settlement:

*'Yes, three times I was beaten, the police gave me a form and I went to health centre for treatment. One injury I have is not treated yet from when he came from behind and beat here (lower back) and that was very bad. When I went to the health centre, they said I needed an X-ray and because I do not have money, I cannot get it.'*

There were extremely limited counselling services available in the refugee settlements with most being provided for girls and women. There was a lack of services available to men with nothing specifically for those who had survived SGBV or torture. One man we spoke to in Bidi Bidi Refugee Settlement said:

*'I did not have any counselling. Only my wounds were treated.'*

Another man interviewed in Pagirinya Refugee Settlement regarding the counselling he had received since arriving in Uganda from South Sudan said:

*'They did not examine me at all up to now. There people working with Office of the Prime Minister they came to my home and did some counselling to my family, and it was useful but not enough. I need more.'*

Whilst most women survivors confirmed they had participated in more than one counselling session organised by government health centres, NGOs, faith-based organisations or community groups, sixty-five percent of men survivors declared they had not received any counselling. A quarter of men stated they had received counselling in the refugee settlements through churches and community groups, with only one man having benefitted from one session of counselling from an NGO. A man interviewed in Bidi Bidi narrated his experience since arriving in the settlement:

*'I did not receive any help from any organisation, but the neighbours console me. There are also some tapes provided by Baptist Church which preach New Testament Bible in local languages. When these images come, I just switch on the tapes, and this helps as well. As a family, we also listen together and go to Catholic Church on Sundays.'*

Most of the refugees told us that they felt secure in Uganda and appreciated not "having to go to bed hearing gun fire." However, they were concerned about the violence and SGBV that was endemic in the settlements. Whilst they all knew of the reporting system for such incidents, they questioned the effectiveness of the process. For this reason, women opted for traditional justice through family reconciliation rather than reporting domestic violence or SGBV to the authorities as this 21-year-old woman in Bidi Bidi who had been beaten by her husband explained:

*'I reported to my father. My father came to the home and then we settled the issue at home. We discussed and resolved.'*

Some women stated that they did not feel enough was being done to protect refugee women from violence and SGBV perpetrated by Ugandan men. One issue highlighted was the small number of police officers working in the settlements and their lack of resources. They experienced challenges in providing effective services, including lack of staff, particularly women police officers and logistics to conduct their role effectively. For instance, in Bidi Bidi Refugee Settlement we were informed the police only had one motorbike for performing their duties for over 250,000 refugees. A police commander interviewed in Bidi Bidi described some of the difficulties trying to tackle reported crimes within the settlements:

*'When they commit offences here, they run to Sudan because they fear to be arrested or detained so they first run to Sudan. The challenges we also face is when a person commits an offence when he is aware, he becomes very arrogant, and they fight the police. When you go for the arrest and at times the parents can even refuse for the perpetrator to be arrested and sometimes, they are serious cases the offences they have committed, and they say that they have their local court.'*

This demonstrates the complex issue of the conflicts between national Ugandan law and traditional justice processes in South Sudan.

There were visual posters in all refugee settlements explaining the reporting system for SGBV and indicating the nearest reporting centre. The need to report SGBV incidents was emphasised, and many women had disclosed such violations. Most women reporting these offences stated that their cases had been well managed by the police, settlement leaders, NGOs, or community groups, depending on the severity of the case. There was a clear health pathway that appeared to be working well. However, a small number of women claimed their complaints had not received any attention. Some women survivors of SGBV had opted not to report the

violations as they did not want their husband to be imprisoned for fear of retribution from his family.

By contrast most men opted not to report crimes committed against them. This was because many of them were unregistered as refugees due to safety concerns and did not want to draw attention to themselves. They were also fearful that other members of the South Sudanese community would find out where they were living, and this would compromise their security and that of their families. The reasons given by men for not reporting incidents were:

*'No point as the police do not take any action; nobody is interested in their situation; and there is no point reporting as 'now is the time to forgive.'*

The 'forgive and forget' message was a powerful one coming from churches in the settlements. A man we spoke to in Pagirinya Refugee Settlement who was attacked in Uganda explained he did not report the incident to the police and told us:

*'I did not tell the police because these people do not take action. I only told to the Block Chairman but there is not action still.'*

Another male refugee from Pagirinya who was being pursued by military personnel from South Sudan within the settlement told us:

*'I think they come across South Sudan, and I think some are allied. They have people whom they are calling on the phones. They have got their informants. I reported this four times to the police, but nobody has taken any action'.*

The lack of adequate health, justice, and support services currently available demonstrates the need for a refugee survivor-focussed approach (Ntungwerisho, 2019). As argued in the author's earlier research an integrative approach that combines education, justice and health services is required that pays particular attention to SGBV and torture survivors (xxx).

## **Discussion: The need for a 'viable' approach to Justice**

**Insert Figure 2 here**

The SGBV referral pathway within the settlements is clearly indicated by UNHCR. However, in practice this is not being implemented effectively and does not include an integrated pathway for men or women survivors of torture, as recommended by our research. The Action against SGBV (UN, 2011) seeks to enhance the quality of protection delivery by promoting six often overlooked areas and including them, as appropriate, in a comprehensive protection strategy. These are cited as protecting children, addressing survival sex, engaging men and boys, promoting safe environments, protecting LGBTI persons and protecting persons with disabilities.

Few refugees who survived SGBV and/or torture had previously been asked about human rights abuses and screening and treatment of these issues was rare in the refugee settlements. For most participants this research was the first time they had told their stories and it was at the same time both traumatic and cathartic. Despite the significant physical health, emotional, social-cultural and rights impact of their experiences, the justice service responses were minimal. The model prescribed in both Refugee Acts encourages integrated service provision and access to markets that is meant to benefit both refugees and neighbouring host communities (UNDP, 2017). This is supported through our research which argues that access to healthcare and justice for survivors we spoke to need to go hand in hand using the integrated model proposed (xxx). Despite the existence of relevant policies and laws outlined in this paper, the need for refugee survivors of SGBV and/or torture to provide evidence including health records is essential in the pursuit of justice. The absence of this evidence severely impacts on a refugee's ability to obtain justice for SGBV, and torture perpetrated against them. In addition, the challenges outlined for the police and Courts who lack professionals and logistics to conduct their role effectively, and the lack of sufficient medical experts and health facilities also impacts on refugee's ability to access justice. Hence, in our research none of the refugees reported receiving any justice for the atrocities carried out against them in South Sudan. However, they valued having the opportunity to narrate their experiences.

As discussed, the laws relevant to refugee survivors of SGBV and torture cannot be effective unless the relevant health evidence can be collated and provided. This health evidence is required for criminal and transitional justice to be provided. In addition to this, improvements in health and justice service provision within refugee settlements is needed, which includes relevant expertise and necessary logistics to provide the necessary assessment and treatment of refugee SGBV and/or torture survivors. Lack of adequate and specialist health provision specifically for injuries related to refugee SGBV and/or torture exacerbates the impact and effects of SGBV (Lilleston et al. 2018). The Refugee Law Project have provided medical camps for refugee survivors in some of the refugee settlements in Northern Uganda. This has been critical in bringing multi-faceted services to post-conflict community members who, long after the guns have fallen silent, remain with untreated war-related injuries in need of rehabilitation as well as psychosocial support (Refugee Law Project, 2019). This approach needs to be integrated for refugee survivors of SGBV and torture throughout the settlements.

In Bidi Bidi Refugee Settlement, various mechanisms were in place to try to ensure access to justice. The NGOs in charge of protection issues set up 'complaint desks' to offer guidance and serve as mediators between refugees and the police. In addition, as refugees must use the domestic legal system in Uganda, cases were heard in local courts outside the settlement. Mobile courts were brought into Bidi Bidi on an ad hoc basis and when available; they brought in the local magistrate from Yumbe and create a makeshift temporary courtroom at a selected settlement site. Although none of the refugees in our research had knowledge of this system, Hoff (2019) stated that the mobile courts proved successful. Hoff (2019) argued that they ensured justice and allowed for refugees to attend sessions and learn more about Ugandan law, which served as a deterrent in committing crimes. Dolan (2019) concluded that combining legal aid with psychosocial support would also assist with the legal empowerment of refugees. Furthermore, Dolan (2019) recommended more legal aid service providers targeting refugees should be established as he found legal aid empowered refugees to demand their rights and ensured that they had access to legal representation when they conflict with the law. However, despite these recommendations, accessing justice still meets with challenges in all the settlements.

A major obstacle is an inadequate understanding of the laws and rights afforded to refugees by the Refugee Welfare Council (RWC) leaders, often the first actor notified after a crime had been committed. RWC leaders often responded by utilizing cultural and traditional customs from their country of origin to address a case. This is partially due to limited police capacity and the understanding by RWC leaders regarding when to report a case to the police, including a capital offence like rape. The police lacked the proper capacity to address all cases, and no mediatory role by an NGO had been put in place. This has resulted in heightened power among RWC leaders in addressing criminal cases and subsequently a poor use of the Ugandan refugee legislation, which explains why cases remain unresolved and people do not feel that justice has been done. The blurred lines as to which actor addresses a crime and the inadequate training in the Uganda law system negatively impacts refugees' access to justice.

Few refugees had access to any meaningful justice in the settlements and several refugees told us they had felt suicidal at times due to the overwhelming nature of their difficulties. However, our research found a severe lack of access to counselling particularly for male survivors. Added to this were the tensions between state and traditional approaches to justice relevant to South Sudanese culture. For those we spoke to traditional approaches to justice used in South Sudan took precedence over Ugandan national laws. However, neither resulted in the justice refugee survivors hoped to obtain. As Ntungwerisho (2019) has argued, traditional justice systems should be adopted for refugees in Northern Uganda, with their emphasis on reconciliation rather than retribution. Refugees interviewed desired recognition they had been wronged, as well as continuing security and access to urgently needed specialist health care and support with livelihoods.

## Conclusion

This research recommends that increasing resilience in response to human rights abuses suffered by both women and men refugees depends on making improvements to health and justice services to more closely meet the needs of women and men equally. It is argued that services for men and women refugee torture survivors remains a significant gap within the settlements we worked in. The article therefore includes new and vital information from men

survivors of SGBV and women and men torture survivors. Using a survivor-centred and trauma-informed methodology resulted in men and women refugee survivors' experiences and views on 'justice' issues being validated and heard. The use of survivor groups within the research also enabled survivors to exercise agency, build resilience and articulate even the most painful experiences. Using a trauma-informed approach during the research involved identifying survivors' strengths, prioritizing their autonomy, and considering how identity and context influenced their experiences and needs. In addition it involved sharing power through collaborative decision-making, as well as developing opportunities for survivors to contribute and cultivate their skills to guide improvements to justice and health responses.

The research argues that SGBV and/or torture are both violations of refugees' rights and their bodies, and therefore their right to viable justice needs to go 'hand in hand' (xxx) and that responses must be survivor-focussed. It is important that service providers remain sensitive to gender differences and cultural context, and that services are informed by a considered understanding and normalisation of the impact of refugees' traumatic experiences on their human rights.

The provision of a 'viable justice approach' would go some way to providing justice through ensuring refugees and their families felt validated which in turn would assist them to use their resilience and agency to continue the process of recovery (Dolan, 2019; Dolan, 2017; Greene et al, 2019; xxx; Ntungwerisho, 2019). Our findings provide evidence for joining up health and justice service responses for refugee survivors of SGBV and/or torture, which responds to changing refugee needs as determined through regular screening, treatment, and reporting. This includes access to essential specialised health services for refugee SGBV and/or torture survivors, including access to psychosocial support and counselling. The importance of integrated culturally and gender-sensitive approaches in both health and justice provision is borne out by the findings and builds on earlier work with conflict survivors (xxx). The current research extends this, to argue that improvements in refugee survivors' dignity and resilience is dependent upon active engagement of refugees themselves, as well as combining formal and informal justice service responses, tackling the structural reasons for SGBV and torture, and supporting the provision of a culturally and gender-sensitive approach. The significant health impact of refugee survivors' experiences of SGBV and torture constitutes a crime and therefore there is no effective survivor-centred justice until adequate health care is received. Additionally refugees are unable to pursue formal justice outside of South Sudan.

A viable justice approach can provide a strong basis for achieving justice goals for survivors. Justice implies a commitment to fairness, adding that in 'society, social justice should foster equal human rights, distributive justice and a structure of opportunity and be grounded in representative and participatory democracy' (Lombard & Twikirize, 2014, p.4). The research findings recommend an approach that integrates formal and survivor-focussed justice services to meet refugees' needs. The viable justice approach enables a response that listens to and responds to the needs of men and women refugee survivors in a way that continues to build their resilience, agency and restores their dignity (xxx). This approach is important for refugees to move forward with their lives in a way that assists them to recover from their experiences of SGBV and/or torture.

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**Table 1. Survivors participating in research by refugee settlement and by gender**

Refugee Settlement	Men	Women	TOTALS
Adjumani (Pagrinya & Mungula)	11	15	26
Bidi-Bidi	9	26	35
TOTALS	20	41	61

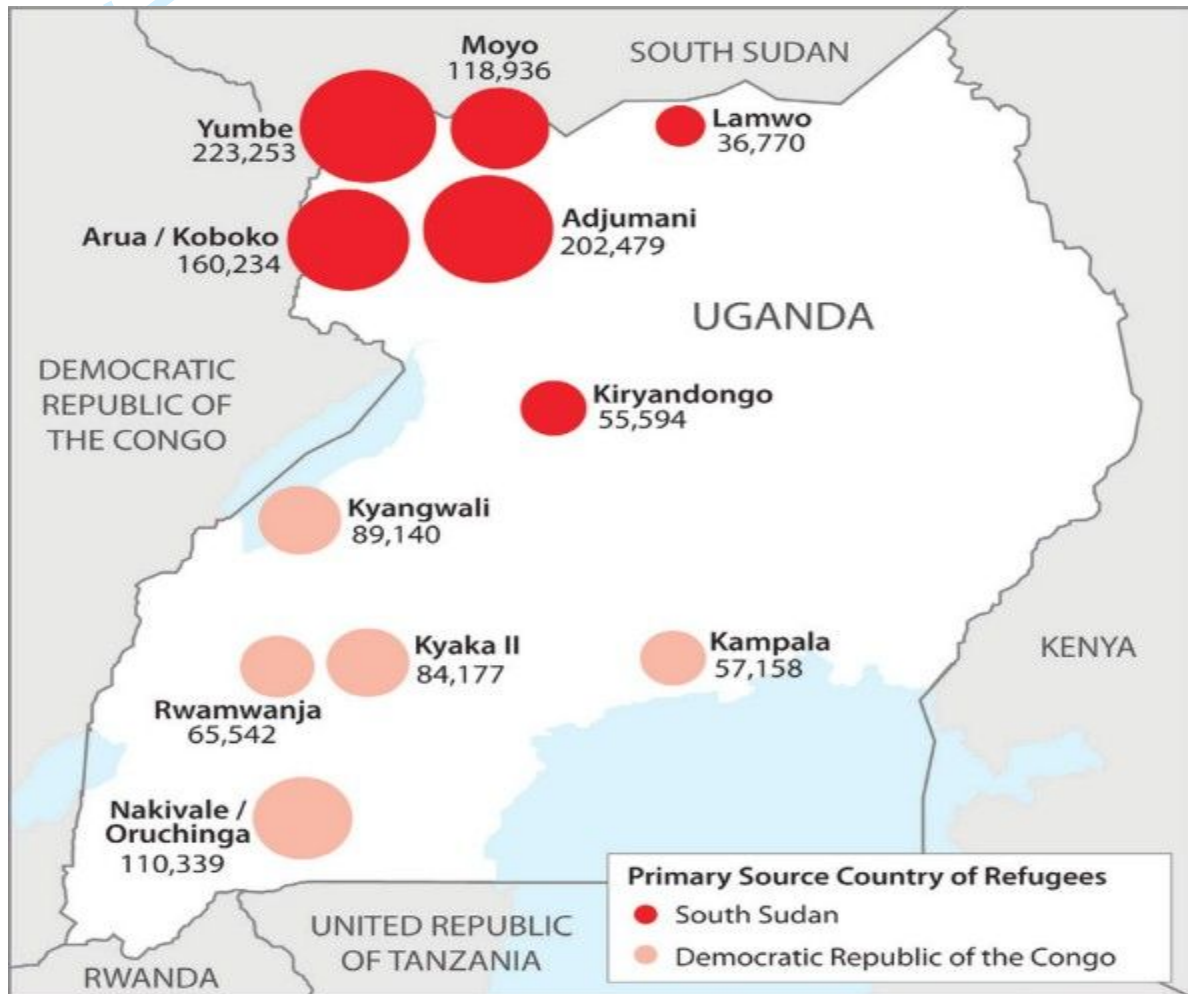
**Table 2. Men and Women survivors participating in research by language spoken**

Language Spoken	Madi	Kuku	Kakwa	Arabic	Acholi	English	Pojula	Bari	Dinka	Total
Men	9		5	4		1	1			20
Women	11	11	2	5	2	1	4	2	1	39
Totals	20	11	7	9	2	2	5	2	1	59

Table 3. Key informants participating in the research

Geographical Location	United Nations Organisations	Ugandan Government	International Non-Governmental Organisations	National Non-Governmental Organisations	Refugee Welfare Councils
Adjumani Refugee Settlement	4	7	4	0	3
Bidi-Bidi Refugee Settlement	0	2	1	0	3
Kampala	0	3	0	4	0
Yumbe	1	0	3	1	1
TOTAL	5	12	8	5	7

**Figure 1: Map Showing Numbers of South Sudanese Refugees living in Refugee Settlements in Northern Uganda in 2019 (Atari & McKague, 2019).**



**Figure 2: Photograph indicating UNHCR Sexual and Gender-Based Violence Referral Pathway in Adjumani Refugee Settlement**

