



Access to Informal Justice for South Sudanese Refugees in Uganda

Policy Brief

International Refugee Rights Initiative

Introduction

The influx of refugees to Uganda has brought a new set of justice needs and stressed the limited resources in the already conflict-impact and resource-poor regions in which many of the refugees are settled. Uganda hosts more than 1.5 million refugees of which women and children constitute over 52% of the entire refugee population and are disproportionately affected by several other rights violations (UNHCR, 2023). However, there is limited recourse to formal justice systems because of the constrained capacity of the Justice institutions. This dearth of government services and unequal access, delivery, and uptake of justice has ultimately heightened inter-community conflict in the refugee-hosting areas. This brief examines the challenges faced by South Sudanese refugees accessing informal justice. The likely impact on their peaceful coexistence, and suggests recommendations to improve access to justice through informal systems.

Why is access to justice important?

Sustainable Development Goal (SDG) 16 recognizes that Justice, Peace and strong institutions are inextricably interlinked. Therefore, equitable access to justice helps promote peaceful and inclusive societies for sustainable development and contributes to building effective, accountable and inclusive institutions at all levels. Addressing access to justice gaps is therefore critical to improving peaceful coexistence social and economic development within refugee-hosting communities.

Refugees in South Sudan

Civilians in South Sudan have been a victim of the conflicts that are taking place and forced them to flee for decades. The area also had a long history of civil conflict before the country got their independence in 2011. In 2013, civilians were victims of violent power struggles and political strife that further led to the displacement of people in a number of different political settlements. The conflict has resulted in mass atrocities and gross human rights violations committed against South Sudanese civilians, both by the state and its allies as well as by opposition forces, including mass killings, enforced disappearances and abductions, rape, sexual slavery, torture, forced displacements, and has triggered a devastating humanitarian crisis (Human Rights Council, 2020).

When refugees settle in a new country, they bring their culture, traditions, and norms with them. One form of culture South Sudanese refugees bring with them is their alternative and traditional form of seeking justice. The norms and values that govern their systems are the result of the efforts of religious leaders and teachers, and associations for women, youth, and refugees. These norms have been passed on through storytelling from generation to generation.

Access to justice for South Sudan refugees



Informal justice can be defined as “justice and dispute resolution mechanisms that operate outside the formal system of state-based laws and courts, from traditional and indigenous systems to local alternative dispute resolution” (International Development Law Organization. 2023). Dinka people for example, the largest ethnic group from South Sudan, have a two-pronged approach to the peace and reconciliation process, at an individual level and a community level, that often culminates into a community event that is deemed as truly transformative events.

South Sudanese refugees come from a state where the constitution recognizes the traditional authority and its role under customary law and where it is envisioned as being part of the local government. Local government, particularly the institution of traditional authorities, is the level of government most South Sudanese have contact with (AU Commission , 2014). The traditional authority of the indigenous people consists of tribal chiefs and their assistants, elders, and community opinion leaders. The elders play a crucial role in ensuring justice and resolving conflicts at the local level, for example, cattle grazing, water and fishing, blood feuds, family disputes, and land.

Compared to formal justice systems, informal justice systems are closer to the people and less costly, more accessible, and refugees feel more "culturally comfortable" compared to intimidating formal procedures. (Wojkowska, 2006). In the context of South Sudanese refugees, informal mechanisms are important to resolve disputes that otherwise would not be dealt with (McConnachie, 2014). Combined barriers such as the refugees’ limited knowledge of English and lack of familiarity with legal procedures, refugee-led resolution systems offer an important alternative to seeking peaceful coexistence.

Current situation

The current arrangements and systems for access to informal justice systems in the refugee settlements in North Uganda will differ for the different areas. However, the following section will describe some of the existing mechanisms that are in place and used to varying degrees. Primarily, the community often has a council of elders of some sort, community leaders, and sometimes boards. This works as an area for the community to raise cases or happenings within the community. However, it should also be mentioned that it exists a variety of different mechanisms and groups, and the following section only highlights some of the institutionalized that are set in the system.

In 2015, the Government of Uganda introduced the Settlement Transformation Agenda (STA), which aims, among other things, to achieve self-reliance for refugees (Office Of The Prime Minister in Uganda, 2016). One of the six main objectives in the agenda is peaceful co-existence, which has provided support and endeavored to build up access to informal justice in various forms (UNCHR, 2018).

In 2018, the Comprehensive Refugee Response Framework Steering Group established the Refugee Engagement Forum (REF) as a national mechanism for systematic refugee response and representation (U-Learn Uganda. 2021). There are 37 refugee members who are refugee leaders. Based on their meetings, two of the elected members have a seat in the Comprehensive Refugee Response Framework Steering Group, where they advocate for their community's concerns and needs (U-Learn Uganda, 2021).

At the local level, the Refugee Welfare Committee (RWC) works in a three-tiered structure for refugee communities. RWC acts as a link/point of contact between the refugee community and



refugee programs/organizations at the local level, where refugees can get assistance to resolve conflicts (Ntegyerize & Onyoin, 2016). As the supreme refugee authority, RWCI is the designated destination for cases when the local court and leaders determine a situation to be overly intricate or unsuitable. Subsequently, RWCI has the authority to forward the case to RCWII, and from there, to RWCIII, which serves as the final stage before the matter is escalated to law enforcement or service providers within the settlement (Ntegyerize & Onyoin, 2016).

Policy recommendations

Recommendations to the Ugandan Government:

Official Recognition: Ensure that refugee's informal justice systems receive official recognition within the legal framework of the country. Formal recognition from the state will legitimize their operations and provide a foundation for collaboration.

Inclusion of refugees: In the context of mechanisms such as Refugee Welfare Centres (RWCs), formalizing informal justice systems can benefit refugees. However, it is important for the Ugandan government to maintain the existing informal structures and systems that refugees know, have access to, and trust.

Recommendations to NGOs:

Support Existing Structures: To ensure that these systems are effective, the government and NGOs must allocate resources and provide training to traditional leaders and elders who participate in these systems.

Harmonise with local courts: Governmental mechanisms and NGOs working in Uganda should strive for harmonious cooperation with local courts and traditional justice systems. It is important to recognize these local systems' knowledge and experience in conflict resolution and peaceful coexistence. Mutual respect and co-operation between formal and informal justice mechanisms will make the justice system more effective.

Conclusion

It is necessary to recognize what an important role the informal justice mechanism plays for South Sudanese refugees in Uganda. As refugees, they bring along their rich cultural heritage, norms, knowledge, and traditions, including their community's informal justice systems and practices, which should be duly acknowledged and supported. The lack of access, knowledge, and trust in the formal justice system makes the informal justice system crucial for refugee's access to justice. Therefore, there is a need for the Ugandan government and NGOs to recognize, support, and include the informal justice mechanisms. Hence all involved parties need to aim for harmonized collaboration between the formal and informal justice systems.



References

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