



Working Paper No. 4

Defenders Across Borders: Congolese Human Rights Defenders in Uganda's Refugee Regime

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The Human Rights Defender Hub Working Papers Series

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About the author

Dr. Katie McQuaid is an anthropologist currently working as a research fellow at the University of Leeds. Her research focuses on gender and sexuality, violence, climate change, intergenerationality and human rights in urban Uganda. She is concerned with understanding the experiences and foregrounding the perspectives of those at the margins of African urbanism, including children, women, older people and refugees living in informal settings. Her current work creatively combines ethnographic and participatory arts methodologies as tools for research, knowledge co-creation, advocacy and impact.

Between 2011 and 2012 she conducted nearly two years' ethnographic research with refugees from the Democratic Republic of Congo living in Kampala, Uganda. This research explores the complexities and continuities of (gendered) violence experienced by men and women as they navigate through conflict, forced displacement and humanitarian contexts. In particular she focused on the lived experiences of exiled human rights defenders active within the refugee population, and the complex persecution of refugees on the basis of their sexual orientation and gender identity and expression.

Since 2015 she has been working in informal urban settings in Jinja, Uganda, developing and conducting an innovative combination of participatory arts and ethnographic methodologies to investigate and creatively challenge issues arising from urban climate change, gender norms and practices, education, intergenerational relations, and adolescent sexual and reproductive health.

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Executive summary

The recent focus on the protection of human rights defenders (HRDs) has so far failed to capture the experiences and protection needs of HRDs active within refugee populations. This paper challenges the pervasive invisibility and marginalisation of refugee defenders through foregrounding the voice of one of a number of HRDs forced to flee persecution for their human rights work in eastern Democratic Republic of Congo (DRC) and seek protection under Uganda's refugee regime, joining tens of thousands living in protracted refugee settlements and as 'self-settled' refugees in the capital city Kampala. It raises important questions about the situation of HRDs in refugee populations and the response of humanitarian agencies and host communities to the social and political action generated by refugee defenders who are simultaneously practicing and excluded from refugee protection.

Drawing on ethnographic research conducted with HRDs in Uganda, this paper explores the lived experiences of one Congolese HRD. His case illustrates the multiple risks faced by exiled defenders who are simultaneously challenging both failures in humanitarian protection and gender-based violence, and persecution based on sexual orientation and gender identity and expression within refugee communities. It extends understanding of how hierarchies of power intersect to generate complex protection and security needs among refugee HRDs.

This paper offers critical insight into the practices and exclusions of refugee defenders by exploring the continuities and ruptures in their work before and after displacement, the activities they undertake to protect and defend the rights of refugees, and the internal and external threats arising from these activities. In doing so, it becomes possible to deepen our understanding of how the fields of HRD protection, human rights defence and humanitarian refugee protection intersect. This paper demonstrates both the unique protection needs of refugee defenders arising from their human rights practice before and after becoming refugees, but also how refugee defenders are uniquely placed to enhance and facilitate community-based approaches to refugee protection. Strengthening the protection of refugee defenders specifically thus has the potential to strengthen and expand the reach of refugee protection more generally.

Implications for practice

- It is crucial that stakeholders and service-providers formally and systemically recognise the unique situation, risks and needs of refugee human rights defenders within state- and humanitarian-led refugee protection programmes and policies to facilitate ongoing protection and support.
- Those working in refugee protection, local civil society and human rights defender protection regimes should be able to identify and provide practical assistance to refugee defenders at risk.
- Refugee regimes should develop flexible mechanisms that promote and protect refugee defenders and their work. Ongoing constructive

engagement and consultation between refugee regimes and refugee defenders, and building refugee defenders' capacities and resources, has the potential to generate more effective and sustainable protection outcomes and strengthen community-based approaches to refugee protection.

- Refugee defenders working in the field of gender, including to protect persons who experience or have a well-founded fear of persecution on the basis of sexual orientation, gender identity or expression, are at particular risk. This extends to internal and external threats of violence and its effects within both host and refugee communities, and at the hands of state and humanitarian agents.
- Refugee regimes should develop and implement (or review existing) policies, guidance notes, training and accountability mechanisms to raise awareness of, and progress towards addressing, the unique protection needs of sexual minority asylum seekers and refugees, and the refugee defenders who advocate for them.

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Introduction

There is an urgent need to understand the lived experiences of human rights defenders (HRDs) acting within refugee populations. Simultaneously facing, speaking out against, and acting to ameliorate the violences and socio-economic and civil/political harms of forced displacement, refugee defenders' actions and voices do not only remain unheard, but in a number of cases are actively repressed. Little is known about how refugee defenders in different humanitarian and host country contexts engage with refugee protection regimes nor if they are targeted, controlled and/or repressed through legal, administrative and other measures by both governments and humanitarian agencies. The recent and growing focus on the evolving practice and protection of HRDs has therefore failed to capture not only the protection needs of defenders within refugee populations,¹ but also the work they are doing themselves to provide and promote the protection of other refugees.

Drawing on twenty-one months of ethnographic research with HRDs active in the Congolese refugee population in Uganda (2011-2012), this paper broadens and complicates our understanding of this under-researched field of human rights defending through foregrounding the narratives and lived experiences of refugee defenders. It offers critical insight into the practices and exclusions of refugee defenders who have fled persecution for their human rights work in the Democratic Republic of Congo (DRC) to seek protection under Uganda's refugee regime, where they join tens of thousands living in protracted refugee settlements and as 'self-settled' refugees in the capital city, Kampala. Here, as in so many other asylum contexts across the world (Jones 2015: 950), the refugee regime fails to either formally identify refugee defenders or provide particular support for the work they do in promoting and protecting the rights of other refugees.

This paper therefore raises important questions about the situation of HRDs in refugee populations, and the responses of humanitarian agencies and host communities to the social and political action generated by refugee defenders who take up forms of what we could recognise as community-based approaches to refugee protection. To counter the structural invisibility of refugees who are routinely dehumanized and stripped of "the specificity of culture, place and history" (Malkki 1995: 7, 12), and the structural exclusion of refugee defenders from human rights discourse and practice, this paper provides insight into the experiences of just one man – Diéudonné² – a 36 year-old Congolese HRD from Bukavu in South Kivu province, DRC, who arrived in Uganda as a refugee in 2008. The paper aims to advance and complicate our understanding of refugee defenders and their human rights practice in four key ways:

- 1) Exploring the continuities and ruptures in HRDs' work before and after displacement and situating their evolving practice amid the flux of forced displacement.
- 2) Considering the intersection of refugee defenders' practices and needs with the particular logics and power structures of protection regimes and the wider socio-legal landscape of countries of asylum.

¹ With the notable exceptions of Jones' (2015) recent article considering the protection of human rights defenders at risk in asylum and temporary international relocation contexts, and a report 'on the situation of human rights defenders working on the rights of people on the move' presented to the Human Rights Council at its 37th session in March 2018 by Michel Forst, Special Rapporteur on the situation of human rights defenders (UN 2018).

² I have changed his name and some personally identifiable details of his story in order to protect his identity.

- 3) Foregrounding the layered vulnerabilities of refugee defenders who play an active role in community-based approaches to refugee protection and advocate for refugee rights within under-resourced and over-stretched contexts.
- 4) Highlighting the critical role that capturing the “view from ground level” (Chernoff 2003: 31) through ethnographic and feminist methodologies can play in redressing the structural invisibility of both refugees and refugee defenders.

I first provide an outline of my ethnographic methodology before critically examining the conceptual terms of analysis – ‘refugee’, ‘HRD’ and ‘humanitarianism’ – central to understanding the situated practice of refugee defenders. This is followed by a brief overview of the Congolese conflicts and displacements, and of the Ugandan humanitarian regime, that have shaped and structured the lives of Congolese refugee defenders. Throughout, the paper weaves together the narratives, experiences and subjectivities of one male³ refugee defender, Diéudonné. In selecting this case, I purposively recount the experiences of a refugee defender working on the contentious issue of sexual and gender-based violence (SGBV) perpetrated both against women and against LGBTI (lesbian, gay, bisexual, transgender, intersex) individuals on the basis of their sexual orientation, gender identity or expression, to illustrate how human rights defence in the context of refugee communities intersects not only with refugee protection regimes, but with wider gendered and sexualised structures of power. As I have explored elsewhere in relation to sexual minority refugees (McQuaid 2017, 2014), gender and sexuality – like race and class – represent systems of power, exclusion and marginalisation, which define the limits of acceptable behaviour for men and women in society (Tamale 2011: 147). Within these are hidden – and often unexamined – connections to “hierarchies or structures of power that are inimical to equality, diversity and freedom” (Miller and Vance 2004: 6). Attending to Diéudonné’s narratives therefore compels us to confront how multiple hierarchies of power shape and limit human rights practice and “give rise to protection needs for those who challenge societal and institutional discrimination, especially women and LGBTI rights defenders” (Bennett et al 2015: 891).

An ethnographic feminist approach allows us to interrogate the very terms of analysis: those of ‘refugee’, ‘HRD’ and ‘victim’. This compels us to carefully measure the language we deploy. As Niezen (2013: 188) cautions, we must be careful with our language so as not to implicitly summon into being an effort to define the beneficiaries of protection. Through foregrounding the individuality of refugee defenders’ stories we can resist animating a collectivity that might qualify as ‘refugees’, ‘victims’ or ‘HRDs’, writing against the construction of a social world in which people are universalised, silenced and/or homogenised as they are written as the objects of intervention. Such an approach is demanded if we are to give voice and face to the complex, gendered and situated practices of refugee defenders within contentious humanitarian, political and socio-cultural orders, and to the forms and layers of violence experienced, interpreted and challenged by defenders across time and space. In doing so, we can foreground the rich diversity of individual and collective articulations of knowledge, agency and power. As Dudai (2014: 391) argues, “[h]uman rights activists are often either venerated by their supporters

³ There is a critical need for further research to explore the practice of HRDs who are women, as well as other activists (whether male, lesbian, gay, bisexual, transgender or intersex) who also defend women’s and sexual rights (Women Human Rights Defenders International Coalition 2012: viii). Sekaggya notes that women human rights defenders (WHRDs) are often at greater risk (particularly of gender-based violence) than their male counterparts, because of sociocultural norms and traditions that script their role in society (UN 2010). Understanding WHRDs, Nah et al (2013: 407) note, highlights the connection between the personal characteristics of HRDs (actual and perceived)—such as gender, class, sexual orientation, geographical location and ethnicity—and their protection needs.

or vilified by opponents, but it is probably less often that their work is seriously examined in detail". Currently there is little available research acknowledging and accounting for the continuous (re)construction of human rights practice through the agency of those engaged in it (Nagaraj and Wijewardene 2014: 399). This is especially true of refugee populations where new strategies and tactics in human rights practice can represent a source of both survival and threat within under-resourced and over-stretched protection regimes.

This paper explores how Diéudonné engages with (and within) a national refugee regime which exists as a 'surrogate' form of protection for individuals who have not been protected by existing national mechanisms⁴ (Jones 2015: 947) – while himself offering a 'surrogate' form of protection to others through community-based rights practice and advocacy. While Jones calls for HRDs at risk to "more directly and openly engage with the international refugee regime" and argues that "the international refugee regime stands to benefit from greater engagement with the emerging regime for human rights defenders at risk" (2015: 950), in the case of Congolese defenders in Uganda we can observe active and direct engagement with – and indeed provocation of and persecution by – the Ugandan refugee regime. More generally, as Nah et al observe, there has been a "surprising paucity of research on the protection of human rights defenders" (2013: 402). Where research does engage with protection, it tends to focus predominantly "on elaborating the protection needs of human rights defenders within the institutions and processes of the human rights regime" (Jones 2015: 938). As Jones has highlighted, this broader inattention to protection is evident in the scarcity of attention paid to the intersection of HRD and refugee protection regimes: "the refugee regime seldom acknowledges the nature and situation of human rights defenders and actors in the protection regime for human rights defenders at risk have been reticent to acknowledge refugee protection as an avenue of protection" (ibid).

While Margaret Sekaggya, then the Special Rapporteur on the situation of human rights defenders, identified LGBTI defenders as particularly at risk (UN 2009: para. 49), the Special Rapporteur's reports and those of other organisations working on HRD issues are only now beginning to identify the vulnerability of refugee defenders working on these issues and more generally, and explore how refugee protection may offer a viable possibility for protection when domestic remedies fail (Jones 2015: 938; UN 2018). In Uganda, domestic refugee legislation contains no reference to HRDs and throughout nearly two years of engagement with Ugandan humanitarian workers I encountered no formal mechanisms or processes in place for the recognition or protection of HRDs seeking asylum, beyond the protection extended to all registered refugees.⁵ Constructive engagement with the international refugee regime, as Jones highlights, "has the potential to bring specific benefits to human rights defenders at risk, including entitlement to various rights, and, international attention and personality" (2015: 943). This paper demonstrates both the unique protection needs of refugee defenders arising from their human rights practice before and after becoming refugees, but also how refugee defenders offer unique opportunities for strengthening and facilitating community-based approaches to refugee protection. Strengthening the protection of refugee defenders thus has the potential to deepen and expand the reach of refugee protection more generally.

⁴ "Its general purpose is to afford protection and fair treatment to those for whom neither is available in their own country" (Lord Hope of Craighead in *Horvath v. Secretary of State for the Home Department*, ex parte [2000] UKHL 37 (6 July 2000), referring to comments by Lord Keith of Kinkell in *Reg. v. Secretary of State for the Home Department*, Ex parte Sivakumaran [1988] A.C. 958, 992H-993A), cf. Jones (2015: 947).

⁵ With the notable exception of the East and Horn of Africa Human Rights Defender Programme (EHAHRDP), now known as Defend Defenders. However, many Congolese HRDs felt excluded from Ugandan and regional protection mechanisms and programmes as both refugees and as francophone HRDs.

Ethnographic methods and refugee defenders

To capture and interpret the (gendered) complexity of the fields of both human rights defending and forced displacement demands the application of a feminist methodology that is immersive, versatile and dialogic. The worlds of conflict and forced displacement which refugee defenders navigate are complex, paradoxical, ambiguous and in constant flux. As such, to understand the diverse ways in which HRDs understand and articulate their experiences requires time, close engagement and openness. As Englund (2006: 23) notes of human rights work in Malawi, ethnographic fieldwork – the method whereby the researcher follows the research subjects through the natural contexts of their practices – is indispensable. Between January 2011 and October 2012 I employed a range of dialogic ethnographic methods in Kampala, Uganda's capital, including participant observation, life story, unstructured and semi-structured interviewing, and focus group discussions with refugee defenders and other urban refugees. These interactions took place over long stretches of time and in relationships characterised by high levels of rapport and trust.

Gradually, I built up networks throughout the urban refugee community through a series of chance encounters, snowballing⁶ and regularly attending community groups, churches, waiting rooms of humanitarian agencies and other spaces frequented by refugees. I was introduced to HRDs by refugees who had either heard or been beneficiaries of their efforts, or by other refugee defenders working in the field. All had been active as HRDs in the DRC and had sought asylum in Uganda from violent – or fear of violent – persecution for their human rights work. The length of their stay in Uganda as refugees varied; some had arrived over ten years previously, while others had only been in Uganda for a year or two. Most spoke fluent English, with the exception of a couple who I communicated with through a mixture of French and Kiswahili. Often forced to flee with almost no belongings or documents, sometimes without their families or experiencing poor health resulting from persecution and/or detention, and facing the convolutions and constraints of registering for refugee status and accessing humanitarian services, it was striking how quickly HRDs were back 'at work', engaging in and creating new forms of mobilisation and protection within their country of asylum. As Diéudonné put it: "I am a human rights defender who was very well educated, I can't go down because of threats, I cannot leave my work".⁷

I participated as far as possible in the everyday lives of refugee defenders as a means to facilitating observation of, and casual interaction with, their daily routines, activities, social networks and the "matrix of meanings" (Wax 1980: 272-3) present in their everyday discourse (see Kaiser 2006: 185; Davies 2005: 67). Therefore in addition to multiple conversations and interviews across private and public spaces of their choosing, I was a participant observer in a wide range of voluntary activities (explored in more detail below), allowing me direct and first hand access to defenders' interactions with the wider refugee community, host population and humanitarian regime. Thus, I gained real-time insight into how refugee defenders sought opportunities, encountered, internalised and/or overcame challenges, and the ways in which the external environment impacted upon and affected their lives as refugees, HRDs and individuals.

⁶ In this sampling technique, often used to reach hard-to-locate or 'hidden' populations, potential research participants are identified by existing research participants, who might then generate new contacts themselves, and the sample (like a snowball) starts to grow.

⁷ This and subsequent direct quotations are drawn from a series of interviews and informal conversations between Diéudonné and I, conducted over a seven-month period between April and October 2012.

Such immersive and long-term engagement, while not unproblematic, gave refugee defenders the opportunity to speak about their experiences gradually and cumulatively and according to their own pace and logics. This allowed time for the chaos and full richness of narratives to develop and revealed the interrelatedness of wider socio-cultural, political and legal dimensions of human rights work, historical processes, personal dispositions and states of mind (see Niehaus 2013: 4). Further, it allowed Diéudonné and other refugee defenders to play an active role as co-researchers, through selecting and asking research questions, identifying research subjects and interpreting and reflecting on information and analysis (see Niehaus 2013: xvii and Horst 2008: 25 for similar approaches). In this way, feminist methods of research “foreground the experiences of participants, as well as the meanings and interpretations that they attach to those experiences” and allow “considerable space for the actual voices of participants to be part of the knowledge creation process” (Arnfred 2004: 26).

Refugee contexts are politically charged and power laden field-sites in which research participants frequently lack access to basic rights and necessities including food, water, shelter, healthcare and security. As this paper demonstrates, refugee defenders often face profound personal risk as a result of their work; their access to refugee protection is often directly jeopardised when the refugee regime either threaten to or withdraw humanitarian protection in order to silence them, and they can be subjected to violent repression on account of their human rights work (see also McQuaid 2016). For those working to protect people persecuted for their sexual orientation or gender identity and expression, these risks are exacerbated by widespread socio-political stigma. My fieldwork thus comprised daily encounters with people under huge duress, at the limits of their endurance and coping with enduring legacies of violence and forced displacement. Ethical considerations around the security and safety of both research participants and data collected were therefore critical. I took great care to jointly reflect with participants upon the spaces in which we met, to protect and encrypt my field notes, and to strictly maintain my participants' anonymity and confidentiality in the field and later in writing, including through the use of pseudonyms and the alteration of personally identifiable details.

Navigating terms: Human rights, refugees and humanitarianism

The term 'HRD' refers to “people who, individually or with others, act to promote or protect human rights” (OHCHR 2004: 2). As Nah et al examine, 'HRD' has been broadly interpreted in practice “to refer to anyone who carries out peaceful activities in the defence of human rights” (2013: 404). Adopting this identity presents both opportunities – recognition, status, funds, protection; and risks – visibility, politicisation, appropriation by aggressors (Bennett et al 2015: 888). Among Uganda's Congolese refugee population, HRDs are referred to simply and colloquially as 'human rights' – les droits de l'homme. In turn they refer to themselves as HRDs or human rights activists and as the 'voice of the voiceless', defining themselves by their knowledge and action in the field of human rights. Their status as HRDs (in exile) is integral

to their sense of identity and agency, and eschews the “victimcy” (Utas 2005: 409) of forced displacement.

Subject to humanitarian law and logics, the term ‘human rights’ – taken in this sense to mean HRD – thus confers recognition and status upon refugee defenders who hold unique positions of power and advocacy at multiple levels. At the community level defenders are recognised for their social and legal capital, as well as their leadership in acting in defence of dignity and human rights. Refugee defenders are highly motivated, in the Congolese/Ugandan context they are often educated to tertiary level, come from a background of ‘professional’ human rights work,⁸ can boast near-encyclopaedic knowledge of refugee protection processes and legal mechanisms, and are active participants in wide-ranging social – and often regional and/or international – networks. It is perhaps unsurprising then, that although some eschew formalisation and ‘politics’, a number of defenders become self-appointed (and later elected) refugee community leaders. Being a refugee defender can grant individuals elevated status in regard to the humanitarian and state refugee apparatus; for some this brings privilege and opportunities to negotiate with humanitarian agencies for personal interest, for others this visibility can generate significant risk and vulnerability to both oppression and retraction of refugee protection.

When they flee into Uganda, HRDs become refugees and are granted protection under the UN Convention Relating to the Status of Refugees (1951) and the Ugandan Refugees Act (2006). The term ‘refugee’ is thus defined by the customary and treaty-based norms of refugee protection and the core protections to which refugees are entitled (Jones 2015: 937). The ‘fixing’ of refugee identity has very tangible and significant consequences, with many studies highlighting its undue ‘pathologising’ of refugees, reinforcing a discourse of victimhood, vulnerability and potential dependency (Ager 2003: 13; Harrell-Bond et al 1992; Uehling 1998: 130). Feldman (2012) draws attention to how humanitarianism shapes a field of humanitarian rights grounded in obligation and compassion. Further, as people flee across borders they are produced as humanitarian ‘clients’ and categorised as an undifferentiated mass of victims (Cha and Small 1994: 1053; Harrell-Bond 2003: 140-1). In contrast with refugees’ own conceptions of who they are and what they want to do, this restricts their ability to practice their rights (Krulfeld and Camino 1994: xiv; Krulfeld and MacDonald 1998: 5), and poses a particular challenge for refugees who identify as HRDs and define themselves by their work defending the ability of others to practice their rights.

The regime to which refugees are subject consists of the legal norms and international institutions of refugee protection and comprises a complex assemblage of state and non-state actors, agencies and legislation focused upon (arguably short-term) humanitarian assistance to a forcibly displaced population. Humanitarian practices circumscribe the conditions of particular locales while being simultaneously embedded within a larger international context influencing and indelibly changing both the character of the local and the trans-local (see Nordstrom 1997: 37). Ugandan state and humanitarian agencies envision, enact and interpret human rights norms in particular ways shaped by local and pre-existing legal, ethical and gendered configurations. For example, as I explore elsewhere (McQuaid 2017), contrary to international

⁸ See Dudai’s discussion on “institutionalizing activism” (2008: 305).

refugee protection guidance, who is permitted access to humanitarian assistance is shaped by local gendered normativities and socio-legal stigma against non-heteronormative forms of gender identity and expression, and the privileging of particular forms of gender-based violence over others. This has significant implications for how HRDs negotiate their positions as refugees and humanitarian 'clients' while pursuing new and extant forms of human rights practice, all the while navigating what Feldman calls "the politics of living" (2012: 157-8): the dynamics of being, surviving, claiming and acting within a particular humanitarian regime. It further raises questions about who is granted narrative authority over human rights discourse and how this is structured by power relations at work within humanitarian regimes.

To understand how refugee defenders' activities and human rights practice shape and are shaped by global (refugee and human rights) norms, local socio-cultural norms (of both countries of origin and asylum) and humanitarian logics, and the material conditions of being a refugee, I draw on the work of several scholars. First is Goodale's widely accepted definition of human rights practice as "all of the many ways in which social actors across the range talk about, advocate for, criticize, study, legally enact, vernacularize, etc., the idea of human rights in its different forms" (2007: 24). Further, Nagaraj and Wijewardene draw attention to "contingent political and sociological framings of rights-in-practice" (2014: 402), while Stammers contends that "practices in respect of human rights are created, re-created, and instantiated by human actors in particular sociohistorical settings and conditions" (1999: 981). Thus, I understand human rights both as object systems (values, norms, institutions) and as action systems (social practices) that allow arenas of struggle for human dignity to be opened up and consolidated (Herrera 2000: 52; Fernández and Patel 2015: 906). Likewise, we can conceptualise the work of refugee defenders as relational, diverse and creative, situated within "a complex constellation of global norms and local knowledge, constantly constructed and facilitated through local, regional, national and sometimes international networks" (Fernández and Patel 2015: 898).

From conflict to displacement: Defenders across borders

The refugee defenders I worked with had all fled eastern DRC, which has been the site of enduring conflicts at the local and provincial levels since the struggles around independence (1959-1965), through 32 years of rule under the kleptocratic President Mobutu and the violence of the regional 'Congo wars' (1996-1997, 1998-2003). The Congolese population has faced protracted political violence engendering frequent forced population displacements both within and across its borders, and the near collapse of the health system and much state infrastructure (see Prunier 2009; Reyntjens 2009; Roberts 2000). Millions of Congolese are estimated to have been killed through military action, malnutrition, disease, corruption, and conflict over the management of natural resources and the inclusion/exclusion of citizenship rights among ethnic groups (IRC 2008). The violence endures, particularly in the east, as many (inter) national protagonists continue to fight in fluctuating patterns of alliance and

confrontation. To borrow from Taussig (1992: 10–34), we might describe how a “state of emergency” faced by many Congolese has become not the exception but the rule, as human rights are violated with impunity on a mass scale.

In the DRC, before becoming refugees, HRDs adhered to something more akin to ‘classical’ human rights work in the provinces of eastern DRC. This largely comprised fact-finding, where they worked collaboratively to document various ‘factual’ aspects of identified human rights violations, and legal analysis, where they demonstrated how such events violated universal legal norms (Dudai 2006: 783-4). Across the provinces of North and South Kivu, for example, Diéudonné had “worked to follow up human rights cases citizens. Civilians were reporting to us. We [would] go and investigate at police stations, military posts, security agencies. Any complaint about human rights violations I had to go, even at night”.

For one of our first meetings Diéudonné invited me to attend an event to celebrate the life and work of Floribert Tschebeya, a prominent Congolese HRD assassinated in Kinshasa in June 2010. Afterwards we sat down to talk in a restaurant he had opened to fund his human rights work. Wearing a baseball cap emblazoned with ‘Defend Defenders!’ and with Lingala music booming around us, he explained how he had become a HRD. As was common in early interactions with HRDs – and in direct contrast to my encounters with other refugees – Diéudonné was reluctant to speak of the events leading to his flight, and instead sketched out his background and the general situation of eastern DRC: lecturing in human rights for three years, secretary general for a civil society organisation in Bukavu, a part-completed Masters programme in Human Rights, multiple atrocities witnessed and catalogued. He described one particular massacre of thirty people in a village in Walungu, South Kivu province, to which he and a colleague travelled nearly 400km over night to investigate, reporting: “how people were dead, they took off the heads, women raped, even children could be raped. We report, have photos, we publish everywhere”. It was “not an easy work”, particularly in rural areas where “there is a lot of military groups controlling those mining. That is a sensitive case”. He spoke emotively of the murder and disappearance of friends and colleagues working as HRDs and journalists. Of his own persecution he merely explained how after participating in a big peace conference in Goma in early 2008 he “received a lot of threats from the Government. I was jailed. I have been beaten by soldiers and the security agency”. He thrust out his arm to show me a deep scar. “They came in [my] house, burnt documents and chairs, destroyed things”. He stopped short before saying: “I came here, I forgot the past”.

DRC’s enduring violence has been accompanied by protracted displacement into neighbouring countries, where Congolese refugees find themselves at odds with a regime premised on emergency and short-term crisis – an approach that is prevalent across many of the region’s humanitarian interventions. At the time of my fieldwork, the United Nations High Commissioner for Refugees (UNHCR) reported approximately 118,000 registered Congolese refugees and asylum seekers in Uganda, with the true number likely to have been much higher. Upon registering as refugees in Uganda, people are bound by the Refugees Act (2006), a piece of legislation described in one humanitarian report as “progressive [and] human rights and protection oriented” (RLP 2006: 3). Refugees can choose whether to live

in designated rural settlements and receive basic material assistance, or to 'self-settle' outside designated settlements with no material assistance. Due to the hardships associated with the settlements, tens of thousands of refugees decide to self-settle among the national population in border areas or in the capital Kampala (Hovil 2007: 601).

Diéudonné, like most of the refugee defenders I worked with, had opted to live in Kampala, residing within one of the city's sprawling slum neighbourhoods where urban refugees live alongside Ugandans in substandard housing with poor sanitation and security, struggling to secure permanent employment, afford their children's education, or access adequate medical treatment. Humanitarian agencies offer some of the only opportunities for refugees to attain healthcare, legal, material, educational or other necessary assistance; yet they are chronically under-resourced and over-subscribed. The staff are overwhelmingly Ugandan, augmenting for many, a divide and power imbalance between the refugee regime and refugees. The refugee regime is perceived as inaccessible; within it, information is a precious commodity. Refugees feel distanced from the decision-making processes pertaining to their individual cases, and refugee defenders regularly describe poor understanding of procedures, referral pathways, timelines and rights more generally within the refugee population. As Diéudonné explained: "people are not reading, CEDAW [Convention on the Elimination of all Forms of Discrimination Against Women], protocols and lots of documents". This, combined with prevailing conditions, ensures that: "the right[s] of children, women, [are] not respected, [it's] not good in my view". This fuels anxieties around documentation and contributes to a culture of distrust that has embittered many relationships between humanitarians and refugees, forcing refugees to look within their own communities for help and protection. Many refugees have been beneficiaries of 'human rights' (meaning HRDs) in DRC and therefore continue to seek their support in Uganda.

The composition of the refugee regime has also led to much frustration among refugee defenders who launched their careers in the vibrant - if dangerous - civil societies of eastern DRC. As Diéudonné reported: "Around South Kivu we were 800 organisations, it was huge!". Defenders who had conducted human rights work in DRC for numerous local, national and international NGOs, find it difficult to secure employment within the refugee regime (with the exception of 'community interpreter' roles) or local human rights field. Diéudonné was not alone in reporting: "I came here without work and there is no work in Uganda". With the exception of providing access to refugee defenders to attend trainings on human rights issues, there is very little interaction between refugee defenders and local civil society. In their 'dispersal' as urban refugees - and francophone refugees at that - Congolese HRDs are marginalised and alienated from local human rights actors who perceive them to be 'outside' of their community (Zetter 2007; Hynes 2009). As Diéudonné noted: "for us Congolese we are from central Africa, no [human rights] NGO will work with us Congolese. I don't know where to find help. So that is a very hard situation for HRDs who are in bad condition".

Luckily Diéudonné was able to overcome the language barrier, with his existing knowledge of English rapidly advancing over five months of lessons run by a

humanitarian agency. He tried volunteering for eight months, teaching French to humanitarian workers and helping translate documents for refugees from French to English. However, formal, remunerated work was not forthcoming. For some time he received “money from friends outside, they see people are suffering there, some friends from Congo”, which he used to open up a restaurant to support his wife and children, and his human rights practice. Many refugee defenders take on work additional to their human rights work – buying and selling building supplies, brokering, interpreting and so on – to firstly survive and secondly fund a broad range of human rights activities.

As refugees, exiled defenders’ human rights practices quickly expand from professionalised activism to focus on less visible forms of political activism “beyond the production of legal documentation” (Tate 2007: 303) and informed by “considerations beyond the human rights corpus – political, social, financial, technical, personal” (Dudai 2004: 391). Refugee defenders apply their experience, knowledge of human rights and awareness of the refugee regime (and connections within it) to help other refugees (especially children, women, and less commonly, those experiencing persecution for their sexual orientation or gender identity) to engage with its processes and policies. In Uganda, this includes the community-based provision of services, which according to HRDs are either not, or unreliably and inequitably, provided by local humanitarian agencies – particularly the UNHCR and its urban implementing partner INTERAID. They lead on developing and providing grassroots forms of community-based refugee protection centred on issues for which they have personal passion and/or professional experience. In Diéudonné’s case, as he explained: “Myself, in my specialisation, I want to work with [the] gender issue”. In addition to helping run a solidarity network for Congolese HRDs working on gender issues in Uganda, he focused his activities on preventing sexual and gender-based violence (SGBV). To keep up-to-date with national and global legislation he would often “go and read books, search on the Internet”. Other defenders focused on promoting access to basic healthcare, child and adult literacy and primary education, vocational training, housing, and/or urgent (usually financial) support for vulnerable individuals and families.

During my fieldwork, in contrast with humanitarian agencies therefore, Congolese defenders were seen by refugees as accessible and approachable; they used the language of human rights to try and both ameliorate and seek redress for refugees’ suffering. In further contrast to the ‘short-term’ and ‘emergency’ focus of the refugee regime, refugee defenders were also seen to be active in what was described as ‘development’ – working with refugee communities to ‘change their situation’ and increase their livelihood outcomes through learning to speak and write English, receiving vocational training or sending their children back to school. Therefore while the HRDs were themselves refugees seeking a core set of entitlements designed to facilitate their new life in Uganda (Hathaway 2005: 156; Jones 2015: 943), they were working to provide this core set of entitlements for other refugees above and beyond the limits of the refugee regime.

Compelled by what he witnessed among refugees in Kampala, Diéudonné drew on his “background, level of understanding, experience” to “educate women on SGBV”; he explained: “there is domestic violence a lot, women are beaten like dogs in their house, in the community women are in second

place". Further, he sought to address the persecution of refugees on the basis of their sexual orientation and gender identity and expression: "people of homosexuality are the minority group – the culture, even Constitution, everything, does not allow homosexuality – you will be followed by citizen[s]. They are human being[s], they must be protected". One of his activities included organising community dialogues:

“ Some women did not know human rights when we started, now women [are] aware of human rights, where to go when violated, what to do when women receive rape [sic] in Uganda. It is very important and useful, we are conducting training of trainers with urban refugee women, to go and train others. There are also lot of women in the camps, they receive some training.

For Dieudonné, being embedded within the refugee population in Kampala offered a unique opportunity to reach women who had fled from rural villages and who had never had access to the services and programmes offered in urban areas. He encountered these women and girls at the humanitarian offices where refugees gather every day and spend huge periods of time waiting for assistance that can be a long time coming. He explained how "communication is a big power, by talking with people [they] will get a lot of information about human rights":

“ I was educating urban refugee women on SGBV and human rights. Women could come with stories of change, one could say: 'since I started with you and got information about rights I did not know beating wife is violence, before I thought it normal, but now I realise it is not normal. He must respect me as a partner'. Others say: 'I talk to my partner and things change, he give me chance to go out with friends and recover joy'. Others go and report to the police if anything happen[s] in the community.

There was, however, a significant structural constraint for refugee defenders facilitating community-based approaches to refugee protection. Activities and organisations were run by teams of volunteers, which significantly limited their reach and scope. As Diéudonné explained: "refugees have no voice because of money. If we have donors who support only refugee organisations I think we would have voice. All those organisations need money to help to success". Donors frequently bypass small refugee-led organisations in favour of large and established international and national non-governmental organisations.

Gendering defending: Refugee defenders at risk

As for HRDs in many countries (Front Line Defenders 2016; Observatory for the Protection of Human Rights Defenders 2011; Amnesty International, 2013; Human Rights Watch, 2013), Congolese defenders continue to suffer from human rights violations and abuses in Uganda, and struggle to continue their work in what can be debilitating and deteriorating conditions. At particular risk are defenders working on women's rights and rights related to sexual orientation and gender identity (see UN 2010). In describing the support network for Congolese defenders of which Diéudonné was an active member, he spoke of seven "really active" organisations run by refugee defenders and

listed organisations and individuals who were “no longer active” because they were “in insecurity” or “a bad condition” because they had been attacked for their work and were keeping “a low profile”.

HRDs like Diéudonné, whose work challenges the entrenched socio-cultural norms and values underlying SGBV, stigmatisation of survivors and other socio-economic and civil/political harms perpetrated on the basis of sexual orientation and gender identity and expression, are especially vulnerable to risks across multiple scales, from refugee and host communities, to the state and even the humanitarian agencies charged with their protection. Diéudonné spoke about receiving threats from Congolese men reacting against his SGBV community dialogues:

“ Sometimes men came [and said]: ‘You told our women how not to respect us, to accuse us at police station, you want to destroy our family’. We receive those threats even here in Uganda! I say I did not teach bad things, I taught [women] how to control their rights, respect others, live in peace with neighbours. You cannot beat someone for no reason, she is not an animal, it is God who created her. I try to advise. I receive some slash from a husband. He said: ‘You are a bad man, you destroy family with your human rights, I call her to your house and you remain with her’.

A corrupt police force, combined with the absence of recognition or support for refugee defenders by either humanitarian regime or local civil society, occluded Diéudonné from seeking protection. The threats and persecution he faced were further exacerbated by the politically-charged legal landscape in Uganda. As he explained of his work supporting sexual and gender minority refugees in Uganda: “those people in sexual minority are beaten like dogs, beaten by security agencies, population citizens, government, army. Myself, I was attacked by citizens, pastors, politicians, militia”. He was extremely conscious of his vulnerability as a refugee with few protections:

“ One time I was attacked, I received several messages reporting I am recruiting of people to be like me. What to do, where to go? I came here to be safe, to realise some issues. But here is dangerous. Police here is so terrible, they are not very well educated the police person here. Here in Uganda and Congo, people not educated in the army. Kampala is a dangerous place in terms of corruption.

Such threats can often have a significant impact on defenders’ family, friends and communities, which further impacts on their stress levels and coping mechanisms (Barry and Nainar 2008). This is exacerbated for defenders struggling to survive in refugee contexts. As Diéudonné pointed out: “we cannot go anywhere, UNHCR say they are helping us, but it is not true! There are problems of rent, school, eating. What can we do?” He paused to gaze across the road; “there are a lot of human rights violations, there is a lot of corruption”.

To continue his work and protect his safety and that of his wife and children, Diéudonné frequently had to move house, immiserating an already uncertain and precarious situation.¹⁰ One weekend I was surprised to encounter Diéudonné at a Congolese church in a part of town far from where we had

⁹ In the Penal Code 1950 under Chapter XIV: Offences against Morality, “carnal knowledge of any person against the order of nature” is “liable to imprisonment for life”, while “gross indecency” of any person constitutes “an offence and is liable to imprisonment for seven years”. On 24 February 2014 President Yoweri Museveni signed the Anti-Homosexuality Act, passing into Ugandan law an act prohibiting any form of sexual relations between people of the same sex, and prohibiting the promotion or recognition of such relations. A number of international donors withdrew their aid to Uganda, and the Ugandan Government faced global condemnation. In late May 2014, a Ugandan humanitarian agency – Refugee Law Project – was suspended from working with refugees by the Ugandan Government on allegations of “promoting homosexuality”. Yet on 1 August 2014 Uganda’s Constitutional Court annulled the legislation, ruling that the bill was passed in December 2013 without the requisite quorum.

¹⁰ To rent a house in Kampala – whatever the quality – frequently requires the payment of several months’ rent upfront. When leaving houses prematurely the chance of recouping these payments is extremely low.

last met. After the service he walked with me to a friend's house where he was staying for a few days. He looked tired as he explained: "I am embarrassed. I don't know where to get money. Up to now they have closed the water, no electricity. Sometimes my wife takes the children all the day to a neighbour's compound. Things have changed. Since March I have struggled".

As he explained, his efforts to counter the exclusion of sexual and gender minorities and survivors of SGBV in turn engendered his own exclusions with complex gendered politics rendering him increasingly vulnerable on multiple fronts:

“ In Uganda I move a lot for security purpose, I changed [house] a lot. I received threats from the Government, from [humanitarian] agencies, from the community: the local community and my Congolese community. I have been attacked. I can be ready to leave Uganda, there is no life for me here, sometime[s] I can't do work very well, I know if I touch [engage with] this I will die, let me leave this. As a human rights defender in Uganda I am actually in trouble. Right now my feeling is to get out of this country.

A couple of months after we met at the church Diéudonné was persecuted once again:

“ My landlord told me to leave his house because I received some friends who are gay. My landlord was seeing them, he said 'You bring people here to recruit my children [into homosexuality], you leave my house immediately'. I am going where? Nowhere. I am trying to sensitise refugees living in Uganda, they have their rights, if they are homosexual it is their choice.

He tried to report his landlord to the police, but like so many targeted for violence and persecution due to their sexual orientation and gender identity and expression, he was intimidated by a police officer who instead threatened to arrest him for being gay. Diéudonné could therefore be persecuted with impunity. It was the most anxious I had seen him, bundled into an oversized coat with a dark hat pulled down low over his face. Gendered inequalities extended into the field of human rights defending. He reported how he had received threats from another group of Congolese refugee defenders, "they don't accept that, homosexuality"; he had received phone calls telling him not to "enter in these things". Diéudonné explained how:

“ The level of understanding is poor. I am not denying they are human rights [defenders], but for me, my will is to see all the world to be human rights activists, everyone to have one world focused on the human rights issue.

Further, he was convinced there had been "spies in one of our meetings":

“ One of the participants took all the information, a list of the ones present. They can identify me. I got lots of calls. I believe this guy got a lot of money. That time I alone was attacked. Then there were other attacks, another support group was attacked also because of their work of supporting homosexuals.

In June 2012 a local newspaper printed an article naming Diéudonné's organisation and accusing them of planning "to educate Ugandan youth to be homosexual. Congolese came with those behaviour [sic] to promote and defend this anti-culture". He was extremely concerned for his safety: "in [the] Congolese community if they hear something about homosexuality they will come and torture you up to death. I cannot think of that issue". His community-based organisation had since been prevented from renewing their registration. His new landlord asked him to vacate or else threatened to "come with police because you will spread your words to people here". He had distributed his belongings between friends and was now sleeping in his restaurant while his family stayed with friends. Diéudonné felt trapped with no recourse to either protection or durable solutions:

“ We are waiting, because of our security, they can arrest me. Everyday people are dying. Security people take you and kill you in Masaka Road and throw you out. Up to now I am struggling to see how to move from this country. Here in Uganda if they want to kill you, they can kill you.

Increasingly concerned for his safety he had sought protection from a number of different agencies, yet with little recognition of the unique protection needs of HRDs or the threats generated in their work, he was turned away:

“ I tried a lot but did not receive any kind of assistance from refugees [agencies]. If I did I could not be here. I told them to relocate me. They are saying that refugees are many, there are many, many. They say they cannot help each one. Human rights defenders are struggling. Sometimes in those agencies they say people are lying, how can they be in a hard situation? I say they are not lying, that is the reality of life. Any time we want to consult UNHCR they say [there are] many numbers, go in the camp and we will help, but in the camp they say UNHCR is a very complicated organisation... We are suppose[d] to go to UNHCR to register but since that time I forgot UNHCR, I know they can't do anything.

Threats to refugee defenders extend beyond the failure of the humanitarian regime to recognise their unique protection needs. For many I met, including Diéudonné, their human rights work provoked threats of withdrawal of protection and refugee status from humanitarian and state agencies, and arbitrary arrest, detention and torture, and forms of mistreatment from state agencies and communities, representing "severe violations of their human rights and would qualify as persecution" (Jones 2015: 940-1). Defenders spoke of being called to meetings held between numerous humanitarian agencies including UNHCR's implementing partner in Kampala, the Office of the Prime Minister and UNHCR representatives, in which refugee defenders were unequivocally told to "be quiet and stay down" or their case-files would be closed and any potential humanitarian assistance in the form of durable solutions – particularly resettlement – would be revoked.

One of Diéudonné's closest friends was a Congolese defender called Fabrice. As Diéudonné explained the first time we met: "Fabrice these days is not active. Since he was attacked he decided to be in the low profile [sic]". Fabrice had

also been working in the field of women's rights denouncing SGBV perpetrated against women in rural refugee settlements before he was kidnapped, detained without due process and tortured. During a meal with them both, Fabrice reflected on the experiences of refugee defenders:



When human rights defenders defend rights, they need to have supporting forces; these are very few. The resisting forces are so many. In Uganda the resisting force is the government. They are resisting the activity of human rights defenders. These governments, they are the ones responsible for human rights violations, directly or indirectly. We try to denounce these issues... Even here in Uganda, we had a network. David Kato was working on LGBT, he was assassinated... When we denounce we get a big problem in all of Africa.

Conclusion

This paper, in critically considering the experiences and reflections of one Congolese refugee defender, has begun the work of revealing the agency and protection needs of HRDs in refugee contexts. An interactive and dialogic ethnographic approach is crucial in giving voice to how defenders perceive, advocate for and engage with the idea of human rights within contentious humanitarian, political and legal orders. Here, competing hierarchies of power slowly come into view and we can examine human rights defending through a broad frame of action, rather than exclusively as protecting and promoting legal norms (see Dudai 2014: 389-390). This illuminates the complex and intersecting political, socio-cultural and humanitarian fields in which refugee defenders claim and promote human rights. We can trace the continuities and discontinuities in the rights practices of defenders forced to abandon 'professional' human rights roles in their home countries and who establish organisations and activities focused on ameliorating the failures and inadequacies of humanitarian regimes amid the social dislocation, constraints and material conditions of becoming and being refugees.

Refugee defenders draw attention to the less visible, non-textual and extra-legal realms of human rights practice. Rights become a mechanism through which defenders can critique and hold to account those who make up the refugee regime: those state, international and non-governmental organisations, not only 'servicing' the refugee population, but also perpetrating violations against them. Rights offer HRD a means to contest the wider normalisation of violence, impunity and injustice across both encamped and 'self-settled' refugee populations. This highlights the multivocality and situated power and logics of human rights as they flow both inside and outside of the narrow confines of text, of international and national law, the formulation of new rights protections, or the official contexts of reports, tribunals and national inquiries; creatively wielded by refugee defenders. Refugee defenders use their position as HRDs to forge new social networks and encourage self-reliance, 'development' and education among refugees to actively resist their objectification as homogenous victims forming silent masses.

However, complex intersecting hierarchies of power shape how people are targeted for violence and what forms of victimhood are socio-culturally (and legally) acceptable, and impose limits on defenders' capacities and resources to promote and protect human rights. Defenders are rendered vulnerable by historically-grounded socio-cultural and political inequalities and gendered politics circulating in both their home and host countries, exacerbated by the lack of protection offered by refugee regimes. The 'othering' of refugee defenders, coupled with the harsh material constraints and social dislocation of urban displacement, intersects with the hostility of Uganda's socio-legal landscape to generate significant internal and external threats of violence within both host and refugee communities and at the hands of the state and humanitarian regime. If refugee and HRD protection regimes are to recognize, protect and support refugee defenders, it is vitally important to consider and understand these forms and layers of violence as they are experienced, interpreted and challenged by refugee defenders themselves. With sustained efforts to build constructive engagement and consultation with refugee defenders, refugee protection regimes not only have the chance to generate more effective and sustainable protection outcomes for refugees more generally, but to build the capacities and resources of those so uniquely placed to enhance and facilitate community-based approaches to refugee protection.

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