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# **'There is violence across, in all arenas': Listening to stories of violence amongst sexual minority refugees in Uganda**

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## **Abstract**

This article examines the complex marginalization and persecution faced by sexual minorities in the Democratic Republic of Congo and forced displacement into Uganda. It demonstrates the need to create space for the voices of sexual minorities within transitional justice, and to attend to the wider systems of violence occurring through conflict and in its aftermath, as they articulate how everyday sexuality-based violence intersects with wider political violence. This article thus calls for a more transformative gendered approach to transitional justice that goes beyond the legal to address deeply ingrained gendered hierarchies of exclusion and stigmatisation of non-heteronormative sexualities.

**KEYWORDS:** violence, sexuality, gender, transitional justice, humanitarianism, Democratic Republic of Congo, Uganda

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## **Introduction**

This article argues for the inclusion of sexuality within a gendered transformative approach to transitional justice. Drawing on the first-hand stories of a Congolese lesbian woman called Sifa<sup>1</sup>, this article calls attention to sexual and gender based violence (SGBV) and other harms perpetrated against women and men as a direct result of their sexuality, which often intersect with mass human rights violations perpetrated within conflict. Transitional justice enjoys a particular appeal because of the opportunities it offers to address human rights abuses committed against men and women and its potentially transformative effect on gender relations in post-conflict societies.<sup>2</sup> However, on the subject of the particular justice needs and harms

experienced by sexual minorities<sup>3</sup>, much current transitional justice scholarship remains silent. The fields of forced migration and transitional justice must consider and address these multiple harms experienced by sexual minorities.

I focus on sexual minorities here because of their pervasive invisibility in reports and discussion of the magnitude of sexual violence in the DRC and their experiences of continuing violence across the border into the spaces of 'refuge' in Uganda and at the hands of its humanitarian regime. Their invisibility, their continued stigmatization and the denial of their victimhood – often also their humanity – renders individuals especially vulnerable to sexual violence and other socio-economic and civil/political harms during conflict and mass violence, and within the aftermath of conflict and displacement. There is a real risk of their exclusion from any future peace-building or transitional justice processes in DRC. The first task of this article is thus to begin the task of redressing the structural exclusion of non-normative sexualities from transitional justice discourse and practice, heeding calls to incorporate an increasing sensitivity to gender with the intersecting identity marker of sexuality. The second is to call for an approach to transitional justice that goes beyond the legal to transforming the normativities rooted in patriarchies of oppression and deeply ingrained patterns of exclusion and stigmatisation of non-heteronormative gender identities. As for women, meaningful security and equality for sexual minority men and women will not be achieved by simply placing barriers to state (or public) violence directed against the wider population; rather, fundamentally transformative action against violence and its underlying causes in the private sphere must be part of the transformative project.<sup>4</sup> It is only then that sexual minorities' multiple justice needs can begin to be addressed in times of conflict, displacement and transition.

Much of the literature addressing transitional justice and gender focuses upon the complex realities of women in conflict and periods of transition. Therefore this article recounts the stories of one woman called Sifa. Sifa was 29-years-old when we met, from Bukavu, South Kivu. She identified as a lesbian and was a widow and mother of two young children of eight and four. She fled the Democratic Republic of Congo in 2007 and had been living in Kampala as a self-settled refugee until we met in 2011. As a subject of humanitarian interventions that privilege heteronormative 'victims,' Sifa's stories reveal how whilst some elements of her identity and experiences of violence were recognized, others were forcibly excluded, rendered invisible as she herself was rendered illegal in national legislation. In Uganda's Penal Code 1950 under Chapter XIV: 'Offences against Morality,' 'carnal knowledge of any person against the order of nature' was 'liable to imprisonment for life', whilst 'gross indecency' of any person 'commits an offence and is liable to imprisonment for seven years'. And whilst in DRC individuals could be subject to prosecution under public decency provisions in the Penal Code, same-sex sexual activity was legal. However, in both countries 'homosexuality' represents an entrenched socio-cultural taboo. This excluded Sifa and many others from accessing the justice system or seeking medical attention for fear of being arrested for their sexuality.

She spoke of being repeatedly targeted for violence as she was branded as less than human, variously as demons or animals, something known in Kiswahili as *haram* – forbidden, illegal, unnatural:

Some people take the lesbian system like crime, they don't take it seriously. [They believe] it is a big shame from Congo, it is big shame. They don't accept, they say it is not good. The Catholic Church see they cannot have homosexuals marry. In Congo people are following the culture. Our culture does not authorise this, the Government do not authorise it. They say they copy white people<sup>5</sup>, but that is not the reason, people are just born like that.

Her stories reveal the everyday social and physical violence of being rejected from the institutions of social life, including her family, schools, clinics, workplaces and churches. Sifa told of being forced to perform what was for her, unnatural normativities to 'be like others in society,' through forced marriage and childbirth, as well as being subjected to what has been increasingly termed as 'corrective rape'. National humanitarian or non-governmental civil society workers rejected her claims due to socio-cultural prejudice, and those human rights defenders and humanitarian workers who did listen or attempted to assist her did so in abject fear of being targeted for violence themselves. Amnesty International reports how LGBTI activists in Uganda feared being reported to the police for "recruiting people into homosexuality",<sup>6</sup> whilst organisations faced closure or raids if suspected of "promoting homosexuality", with 38 organisations 'banned' in Uganda for this reason in 2012. The threat to life in this, their job to protect, was thrown into stark relief for the activist community in the wake of the murder on 26 January 2011 of David Kato Kisule, a prominent LGBT rights activist at his home in Kampala. And through all of these experiences the police remained out of bounds for Sifa out of her fear that in reporting a crime she could instead be arrested for her sexuality.

### **Transitional justice and gender**

The ad hoc international criminal tribunals of the early 1990s marked a significant breakthrough in terms of transitional justice for sexual and other gender-based violence (SGBV), with the recognition of rape as a war crime by the International Criminal Tribunal for the Former Yugoslavia and the first ever conviction of rape as a crime of genocide at the International Criminal Tribunal for Rwanda.<sup>7</sup> Truth commissions in Peru, Sierra Leone, and Timor Leste 'accorded unprecedented visibility to violence against women and gave dignity to women's perspectives'.<sup>8</sup> The extent and impact of the recognition of the gendered dimension of transitional justice techniques and more specifically the establishment, revision, and operation of new legal and political institutions in transitional societies has been long acknowledged and established.<sup>9</sup> However, evidence suggests that criminal prosecutions through international, national or community courts alone are unable to address the multiple justice needs of women

affected by violence.<sup>10</sup>

Myrntinen et al. argue for a 'gender-relational' approach which leads to 'broadening and deepening the understanding of gender in peacebuilding', and thus transitional justice. The broadening comes with moving away from equating gender solely with women and girls and the deepening derives from incorporating gender with other intersecting identity markers 'such as age, social class, sexuality, disability, ethnic or religious background, marital status, or urban/rural setting'.<sup>11</sup> The importance of 'intersectionality' to a gender analysis cannot be overstated, and when taken into consideration, the stories that emerge 'will inevitably produce narrative outcomes that are more layered and more complicated'.<sup>12</sup> In Uganda the lived experiences of sexual minority refugees reveal how wider systems of violence intersect with sexuality-based violence occurring as part of complex constellations of violence woven through the fabric of their everyday life regardless of, and at times exacerbated by, conflict and displacement, and within broader socio-cultural, political, legal and humanitarian regimes<sup>13</sup>.

With a handful of notable exceptions<sup>14</sup>, the wider humanitarian field, and the increasingly broad and sophisticated field of study and practice of gender within transitional justice, is relatively silent on questions of sexuality and sexualised constructs of power and violence. The experiences of those belonging to sexual and gender minorities remain unheard, and their experiences and existence are largely invisible in policy and academic discussions on sexual violence in this region, and I have struggled to find any work on sexual violence in Congo that mentions minorities. Whilst the voices in this article come from those encountering the gender disciplinary logics of humanitarian, rather than transitional justice, interventions – which scripts their agency and disconnects them from seeking either their rights or redress – it has implications for wider transitional justice practice across this region. The ways in which transitional justice practice marks the boundaries of female agency has been recently well-documented<sup>15</sup>, wherein we understand how the partial narrative that emerges from such processes where women's voices are absent becomes the meta-narrative of the conflict and the basis for broader retributive, distributive, and restorative justice processes from which women then may be excluded *a priori*.<sup>16</sup> This article calls for similar scrutiny with regard to sexuality and how complex gendered and sexualized politics shape how people are targeted for violence, how they understand and articulate these experiences, and their encounters with the region's humanitarian interventions. Sexuality as a discourse, Tamale argues, is the lens that enhances theoretical and conceptual clarity to the otherwise murky, seemingly incomprehensible aspects of social power and control over resources.<sup>17</sup> Like gender, race and class, sexuality is a system of power, exclusion and marginalisation in which socio-political structures of power define what is acceptable sexual behavior for men and women in society. Transitional justice must enshrine sensitivity to gendered constructs of power, and how they act upon not just bodies, but people's ability to record and seek justice afterwards.

A critical feminist approach in this way considers how the identity of the biological body itself is always interpreted through the culturally specific 'matrix of intelligibility' that determines the limits of gender.<sup>18</sup> It takes as an analytical baseline the embeddedness of gender practices within a historically-located hierarchical system of differentiation which privileges those defined as masculine at the expense of those defined as feminine, connecting analysis with politics and ethics at a fundamental level and which in turn posit particular forms of masculinity hegemonic.<sup>19</sup> Such an approach ensures that discussion is both politicised and forced into the public sphere.<sup>20</sup> As Bourdieu argues, such structures of domination are:

the product of an incessant (and therefore historical) labour of reproduction, to which singular agents (including men, with weapons such as physical violence and symbolic violence) and institutions – families, the church, the educational system, the state – contribute. The dominated apply categories constructed from the point of view of the dominant to the relations of domination, thus making them appear as natural.<sup>21</sup>

To attend to sexual minority narratives is to therefore deconstruct (hetero)normative frames of gendered knowledge, not just deconstructing the enduring dichotomy setting up women as victims of sexual violence and men as combatants/perpetrators, but focusing on subjugated masculinities and femininities. Sexual minority refugees force us to thus attend to a 'rethinking of precariousness, vulnerability, injurability, interdependency, exposure, bodily persistence, desire, work, and the claims of language and social belonging'<sup>22</sup> beyond the grand narratives of a conflict.

## **Methodology**

The stories recounted within this article are drawn from a broader ethnographic project I conducted with Congolese refugees in Uganda between January 2011 and October 2012, exploring refugees' perspectives on violence, humanitarianism and human rights. Based mainly in Kampala for this continuous period, but including several trips to the refugee settlements of Nakivale and Kyaka II, I interviewed over 300 Congolese refugees and conducted participant observation within a Ugandan humanitarian refugee agency and several refugee-led community-based organisations and support groups. It was through my engagement with one of the latter that I encountered Sifa. She was a member of a support group comprising a group of Congolese, Rwandese and Burundian sexual minority refugees and asylum seekers who had sought protection in association in Kampala. I attended many weekly meetings of this group and came to know a number of its members well.

I arranged to meet Sifa alone a few months into my fieldwork outside the small office where, with her fluent English, she had found part-time work completing various administrative tasks. She wore a bright rainbow top, her hair styled with a new weave and adorned with sparkling clips. She smiled and we hugged. We had met and chatted briefly a number of times, but this was the

first opportunity we had found to sit down and talk about her experiences in more depth. The office was empty this afternoon, and she explained as we walked inside that she had actually slept here a few times. The job was not paying enough to cover her rent, so her landlord had 'chased' her. She had been moving around different friends' houses, and had shared her belongings out between them for safekeeping. Her children were staying with a woman she knew, and she tried to visit whenever she could. We sat down in the waiting room, closing the door for privacy, and she began to recite 'my story from Congo'. Parts of this narrative and what I call her 'living story' – the unfolding experiences she narrated at the time of their happening, later, or long after they occurred – are reconstructed here, incorporating my observations of her interactions with humanitarian staff and members of her support group. Sifa told me her stories gradually and cumulatively, according to her own momentum and logics over time, and across multiple interviews, conversations and phone calls we shared.

As is the case in life story interviewing and narrative methods in migration research more generally, the stories Sifa told me changed and gained more detail over time as our mutual trust grew and her circumstances shifted as she navigated opportunities, disappointments and violence. As for the stories of another sexual minority refugee – Alex – I present elsewhere<sup>23</sup>, this article (re)assembles Sifa's stories, reconstructing her life trajectory and her shifting conceptualisations, meanings, and representations of it,<sup>24</sup> not in the order in which they were shared, nor perhaps in reflection of their original intentions. Zeitlyn cautions how "voices change as they are written"<sup>25</sup>, and I "proceed with caution"<sup>26</sup> in reassembling and reordering her stories, imposing a degree and quality of coherence to the ways in which her memories were organized and told, but doing so in order to foreground them.

An immersive and dialogic ethnographic engagement with this persecuted minority group allowed me to understand how violence is experienced not just as extra-ordinary events occurring within wartime, but as 'violent continuities' – the multiple forms and layers of violence that occur through time and space, according to how they are lived, experienced and told by those on the ground.<sup>27</sup> This directs attention to the wider socio-cultural, political and legal dimensions of violence that constructs a social world in which people are silenced, attacked, homogenized, dehumanized and written out of interventions. Foregrounding the individuality of people's stories here resists animating a homogenized collectivity that might qualify as 'victims', 'women', 'men', 'refugees', 'sexual minorities', and reveals the potential agency of those who navigate and speak within contentious humanitarian, political and legal orders.

Such fieldwork and analysis demanded an interactive, flexible and reflexive approach as Sifa and others I engaged with continued to live amidst unfolding violence across ruptured and interstitial moments, and constant critical reflection on my positionality and power as a gendered researcher. As this article demonstrates, sexual minority asylum seekers and refugees faced profound personal risk should their sexuality or gender identity be discovered. As such the

security of my research subjects and data was paramount and I took unflinching care to protect their safety, strictly maintaining their anonymity and confidentiality in the field and later in writing up, protecting my research artefacts, and engaging in frequent joint reflections upon the spaces in which we met. In many cases I met sexual minority refugees through my participant observation work with a Ugandan humanitarian agency. Whilst such an engaged position was ideal for accessing and gaining the trust of many of these individuals, achieving and maintaining my position as an independent researcher was difficult because of multiple emotional, ethical and social obligations and implications of such a role.<sup>28</sup>

### **The multiple violences of DRC**

The DRC has been the site of acute conflict on the local and provincial levels since Independence in 1960,<sup>29</sup> through 32 years of rule under President Mobutu and the violence of wars from 1996 to 1997, and 1998 to 2002. It has been described as a humanitarian catastrophe of virtually unfathomable proportions with an estimated death toll of over five million people through military action, malnutrition and disease.<sup>30</sup> Protracted conflict – which continues particularly in the East – has resulted in frequent forced population displacements within and across its borders, the near collapse of the health system and much state infrastructure.<sup>31</sup> The conflict has been complex involving numerous national and international actors and armed groups, and multiple (para)military groups fighting in fluctuating patterns of alliance and confrontation, in a resource-rich region plagued by foreign involvement, ethnic tension, political wrangling and widespread impunity.<sup>32</sup> These constant and confusing cycles of violence and conflict ensure that many men and women face multiple experiences of violence across time and public and private realms. Yet, while boys, girls, women and men narrate experiences of multiple forms of violence and abuse, it is sexual violence that has attracted the lion's share of attention, especially among 'outside observers'.<sup>33</sup>

There has been wide critique of the predominant focus on sexual violence to the exclusion of other gendered harms, including socio-economic harms.<sup>34</sup> As Ní Aoláin points out, the kinds of human rights violations that have been identified externally as particularly egregious during the conflict will have a clear ascendancy in the hierarchy of harms that are perceived to merit review and redress in the post conflict period.<sup>35</sup> This raises concern about not just which harms are highlighted, but also which victims. Whilst research shows there is a generalized underreporting of sexual violence, this is exacerbated when the victim is male, and male survivors of gender-based violence remain a marginal concern to international policy, which has profound implications for the facilities that exist to support them during and after periods of active conflict.<sup>36</sup> Furthermore, the sexual violence targeted at sexual minorities remains almost entirely excluded, fuelling their invisibility and inability to seek support or redress.

International criminal law treats rape in war as 'exceptional,' occluding rape in 'peace,' which



becomes relegated to 'ordinary violence'.<sup>37</sup> Lambourne and Rodriguez Carreon argue that this principle of exceptionality denies the underlying societal circumstances which link the existence of rape in war with the ordinary everyday violence that women experience in *both* peace and war, as peacetime violations are legally excluded from the international justice community's jurisdiction. This 'ordinary violence' is not only direct in the form of rape and other SGBV; it is also structural in terms of the socioeconomic discrimination faced by women which is exaggerated and exacerbated by war and the experience of sexual violence with its accompanying physiological and psychological impacts on a woman's ability to work and take care of herself and her family. This structural violence is connected to class, race and gender inequalities and the legal, political and social rules and context that limit the possibility for women to achieve justice in patriarchal societies and under international criminal law.<sup>38</sup> Putting the spotlight on experiences of sexual minorities therefore raises marked implications for how international criminal law treats rape in war, pointing to the wider effects of ordinary and multiple forms of non-war gendered violence.

Behind the protracted political violence and sexual violence of DRC, and indeed often intersecting with it, are thus harms that have not found their way into international reports – the persecutory and often everyday violence subjected to girls, boys, women and men on the basis of their non-normative sexualities. Whilst the increased vulnerability of women due to social dislocation and loss of social survival networks induced by forced displacement has been documented,<sup>39</sup> many sexual minorities speak of lifetimes of social isolation and socio-economic exclusion. These men and women face the same risks of violence as the wider population, but their effects are exacerbated by their exclusion not just from economic and political life, but also social and cultural life as they are rejected by family and communities because of their sexuality, which simultaneously singles them out for persecutory violence. Their experiences reveal the precarity and wide spectrum of gendered harms facing those who do not conform to this region's heteronormative and historically-located hierarchical system of gendered differentiation which privileges those defined as masculine at the expense of those defined as feminine.<sup>40</sup> As for the women in transitional contexts cited by Lambourne and Rodriguez-Carreón,<sup>41</sup> inability to access health, education and legal rights are frequently cited justice needs of sexual minorities as they recount stories of life both in their home and host countries.

### **Displacement in Uganda**

Around the time of this research, the United Nations High Commissioner for Refugees (UNHCR) reported there were approximately 118,000 registered Congolese refugees and asylum seekers in Uganda<sup>42</sup>, but the true number was likely to be much higher. The current refugee policy in Uganda according to the Refugees Act 2006 and UNHCR policy is "premised on two pillars: the settlement policy and the self-reliance strategy (SRS). Under the former, refugees are required to reside in designated settlements, all located in remote, rural areas".<sup>43</sup> Here they are eligible for

material assistance, whereas under the latter, those refugees living outside of such settlements are not provided with any material assistance.<sup>44</sup> Due to the hardships and restrictions associated with the settlements, tens of thousands of refugees opt to 'self-settle' amongst the national population in border areas or the capital, Kampala, and other cities.<sup>45</sup> Many sexual minority refugees such as Sifa opt for the relative anonymity of Kampala. Here they often have little choice but to live in one of the many slum belts of Kampala, occupying substandard housing with poor sanitation and security. Forced displacement from a long-term conflict zone and many years of persecution, coupled with the uncertainties of life in Kampala's slums, ensure they face multiple and complex needs, finding it difficult to secure permanent employment, places for their children in schools, or adequate medical treatment. Ugandan humanitarian agencies often represent the only route to attaining health, legal, material, educational, and other necessary assistance, yet these are oversubscribed and underfunded, perceived to be inaccessible to many refugees<sup>46</sup>, let alone those who fear persecution for their sexuality or gender identity.

### **'It is secret, the truth about you': Invisibilities of sexual minorities**

The refugees I met belonging to sexual and gender minorities in this region spoke of being repeatedly rendered invisible across multiple levels. On the local and national level their very humanity is repeatedly denied as my informants reported being branded as non-human, their communities thus unable to comprehend them as victims as they represent something *haram* – forbidden, illegal, unnatural. My informants described being rejected from the everyday institutions of social life, including their families, schools, community meetings and sports pitches, restaurants and shops, and workplaces. They are not free to practice religion, facing often-violent expulsion from places of worship; and they often cannot access healthcare due to prejudice from medical staff, or fear of medical conditions revealing their sexuality. Sifa and others told heartbreaking stories of seeking refuge in invisibility, uneasily adopting what felt like unnatural normative masculine and feminine practices such as dress, work, marriage and child birth. In order to 'be like others in society,' many were subjected to forced marriage and childbirth, and all spoke of lifetimes of hiding their stories and 'true' identities in an attempt to remain invisible and safe from persecutory violence. As Sifa explained:

It is secret, the truth about you, what you do, what you are... there is some truth inside you, the heart is saying the truth and the mouth is saying the other. The burden was heavy for me. My head is heavy.

Sifa and her Mother were thrown out of the family home when she was sixteen by her Father upon discovering her sexuality, shouting 'we don't like that kind, we cannot have a lesbian'. Life became incredibly hard after they were 'chased' away. Desperate and unable to comprehend the 'unnatural' behaviour of her daughter, her Mother brought a man to the house one day, as Sifa recounts, clenching her hands together: 'even my Mum came to look for someone to sleep with

me and pay for it. It was so bad to me, it was not good to do that... I said no to my Mother'. She was not alone in recounting how a parent or guardian attempted to force her to submit to sexual intercourse with a man paid to do so, in an attempt to 'correct' her sexual orientation and gender identity. Sifa squeezed her fingers to her eyes, pausing for a moment:

Me and my Mother started to live the difficult life. I didn't even go to school, we were just looking for little money like making bricks. Everything I was doing showed I was like a boy, such as hard jobs, I behaved like a boy. They checked if I was really a boy or girl, it made them wonder if I was a boy or a girl. Mum begged me to hide my kind. To give birth was not my choice, it happened because of my life. I was with my husband, but outside I was with my friends enjoying my kind of life. My Mother decided for me to get married. For me, I was forced into marriage, whether I like it or not. After that I got a child. It wasn't easy, I had nothing to do, nowhere to go, even financially nothing to do. It was difficult, pushed into something you don't like, it is like fire. People said I was not a girl like the others. Life was very bad. It became hard to move around, [in the village] they thought I was crazy because of my nature. They said they would even kill me because of my kind.

Sifa was forced into a customary marriage arranged by her mother to a man from a different village. He was initially unaware of the rumours circulating locally about his new bride. This was a common violation faced by sexual minorities from the DRC, forced into strained heterosexual marriages, with either men or women, that could last many years. For Sifa life was unbearable in her marriage, but particularly when her husband 'came to find out I was lying, complaining that I deceived him'. After this, he attacked her, repeatedly beating her and pulling her hair, threatening to announce to everyone in the area 'the truth about me'. As rumours circulated she was attacked and abused 'on the street', which in turn would generate increased violence from her husband within their home. 'I missed my freedom', she told me in one conversation, reflecting back on these years. These local forms of persecution soon began to intersect with wider political violence:

The war was too hard for me. Government soldiers when passing around the area, people say "there is a lesbian here", even with the rebels. I had no position. I had nowhere to run. The rebel soldiers one day kidnapped me to find out if I was a girl or boy, they made me naked. I was hurt very much. They put me on a tree, they tied me.

Two years later, in a random attack, her house was targeted by soldiers from the *Congrès National pour la Défense du Peuple* (CNDP). Soldiers looted their house and abducted her husband to carry their loot out of the village and deep into the surrounding forest. She never saw him again. As Sifa talked, she rolled up her trousers to show me deep shining scars on her legs, explaining how the soldiers sexually abused her:

There were about fifteen people. One would go, another after, until I came to lose my control [consciousness], but even after, they kept coming. When I left the hospital I go to hide. It was difficult. When I am with my lesbian girls or gays I can talk, [but] other people do not want to talk to me. After that event I came to Uganda because of these problems and seeing there is no peace and security.

As Sifa mentioned above, 'the Government do not authorise it'. On the State level 'what they are' is illegal, not just infringing their human rights, but excluding them from accessing the justice system for fear of being arrested themselves – something which is often deliberately wielded by those perpetrating crimes against them in the private sphere. It is concerning therefore that for sexual minorities it is likely their inability to report crimes would persist during any transitional phase, necessitating a wider transformative agenda.

Persecution continues to dominate life for sexual minorities over the border. For the refugees I knew in the dense refugee settlements of Nakivale and Kyaka II in Western Uganda, any lapses in conformity to gender norms of practice, dress and behaviour would instantly set individuals apart and make them targets of persecution. The refugee settlements were highly observant spaces in which information spread voraciously. Once an individual was 'outed' as being a sexual minority, they would face increasingly high levels of everyday violence and gender-based persecution. In an increasing spiral of violence individuals spoke of being beaten, raped, sexually abused and their belongings and/or houses burnt. They and their family members would find themselves unable to access humanitarian assistance such as food rations, housing and farming provisions, health care, counseling or legal aid, blocked by other refugees or the local humanitarian workers themselves, unable to reach the higher echelons of protection officers or international staff. They were barred from schools, community meetings, churches and mosques, not served in local restaurants and rejected by street vendors. Refugees in Kampala faced the same persecution, but could at least move to a new part of the city, fleeing into the anonymity of dense slums. When it came to accessing humanitarian agencies assisting refugees, however, the problem was the same.

When Sifa arrived in Kampala she asked a woman she met at a church 'about lesbians' and was told 'not to talk about lesbians, "we do not allow lesbians in Uganda, they go to jail, if you are a lesbian keep it in your heart".' Knowing, Sifa told me, that 'the Church was hating lesbians', she avoided Congolese churches, which for many refugees provide a vital source of both information and socio-economic support such as food and shelter. Much later, she met a Ugandan woman, a lesbian, and they became friends. Sifa explains:

She gave me advice, she said 'don't speak up, they can even kill you, don't talk about it'. After that she showed me the way I can be quiet. I felt bad the time I reached here, I was just alone without any friends, I was alone with no-one to assist me.

One afternoon I visited Sifa at the house of her friend who was looking after her children. We were talking about the children when she suddenly paused. One moment she was smiling at me, but then in the next instance she heaved, doubling over as if the words themselves were hurting her, 'I didn't like to choose to be born like that', she told me, 'but people take it like I made that choice. Sometimes I feel like I can die because it is beyond! It is too much for me. My heart is not ok'. She closed her eyes tightly: 'when I see how I am living, I feel like I am nothing in the world'. She paused, taking shaking hands away from her face and back into her lap, clasping them together:

Here you cannot trust. If you are gay or lesbian you cannot go to the police, you could be arrested. When you are arrested the UNHCR [United Nations High Commissioner for Refugees] cannot do anything. HCR are tired of our problems. One office struggles, but fears being arrested. Some people have insecurity which is real but they are not helped... UNHCR does not care about us. I have not had a chance to see the Protection Officer, no chance to express yourselves, they say they don't like lesbians. I have no husband, no-one to help, to feed the children is very very hard.

Her words echo those of so many, who told me of their incredulity, their despair at UNHCR's seeming reluctance to involve itself in their cases. Having been unable to talk to those in their communities, they looked to the UNHCR, with its discourse of protection and human rights, to listen, yet found it almost completely inaccessible. Sifa articulates here her emotional response to a feeling of abandonment by those she looked to for protection. Having observed how others in the wider refugee population gained access to national UNHCR staff, such as Protection Officers, she understood her exclusion from such routes to resettlement and emergency assistance as an active turning away of humanitarian staff, and a further manifestation of her 'othering'. This generates a sense of double marginality as sexual minorities experience vulnerability to both gender persecution *and* the challenges of forced displacement without recourse to humanitarian assistance. With its discourse of protection, this is a bitter pill to swallow, and demonstrates the long journey ahead for the UNHCR and other humanitarian agencies to close the gap between policy and practice.<sup>47</sup>

A couple of months after I first met Sifa she was abducted and raped. As elaborated below, she had not reported this to anyone, terrified that people she knew, or the wider community, would find out either her sexuality or that she, on occasion, engaged in sex work. As with many of the sexual minority women I knew (and a number of the men), their socio-economic exclusion coupled with an inability to access humanitarian assistance, Sifa felt forced to turn to sex work, or what humanitarians knew as 'survival sex,'<sup>48</sup> to support herself and her children. For many women this often meant confronting the shame and pain of sexual intercourse with male clients. Sifa had confided to me a number of months after we became friends her first experiences of working in the nightclubs of Kabalagala:

I thought 'my God, this one I can't manage'. I came back the first day with 10,000<sup>49</sup>. On the second day I refuse to go, I rather die. The third day I went, slowly, slowly. I asked 'God am I dying?' I stay home for one month, but when I was working I could buy food. But it was not easy for me... I am 30 years old, with no future, no bank account, what kind of life is this? I struggle, I struggle.

Sex work is highly stigmatised in both Congolese and host communities, masking as often, an active demand. It was also illegal in Uganda, penalised in criminal law under Section 138 of the Penal Code. As Tamale writes of sex work in Uganda:

The socio-cultural and legal regimes governing sex work are fraught with paradoxes and contradictions. The paradoxes present themselves variously through: the ambivalence of the sexed body, of the private and public spaces where sex is traded; the opposition between morality and economic survival; between religion and rights; and between virtue and deviance. They are also present in the illogicality of forbidden sexualities in the context of human pleasurable desires, the irreconcilability of class and status antagonisms, and the contradictions of poor and under-developed economies.<sup>50</sup>

Many of my informants had experienced violence in the course of their sex work. As Tamale notes, the victimisation, objectification and violence associated with sexual labour might be amplified by the fact of its criminalisation, but it is all part of the wider exploitative gender/power relations existing in the societies of this region.<sup>51</sup> Women's sexuality is particularly interwoven with ideologies of reproduction and domesticity, coming to bear upon those women who, like Sifa, defy such normativities. For both men and women, sex work opened them up to particular vulnerability to abuse from male clients who could abuse them with impunity, knowing either that they could not report any crimes to the police, but also using the threat of reporting them as 'homosexuals' to the police and wider community should they not comply with the client's demands. This often resulted in rape and other sexual and physical violence, and often lack of payment. It also had marked implications for health, as clients often refused to use condoms, and ongoing health concerns and sexually transmitted infections were frequently treated with traditional medicine for fear of scrutiny by medical staff.

In 2011, men who had witnessed Sifa attending a sexual minority support group meeting at a humanitarian agency office targeted her. They posed as clients before drugging and abducting her from a nightclub in Kabalagala where she worked. She was held in a room for two days, repeatedly raped and abused by two men:

They said they wanted to test if I was a lesbian and they had heard we did not have a vagina like other women. I wanted to shout, but two of them had knives and threatened that they would kill me if I shouted.

The men took photographs of her during the ordeal and threatened ‘they would put my photo everywhere if I told anyone what had happened. They said I was shaming the Congolese community’. This latter statement provides insight into the naturalization of xenophobic anti-homosexual stigma – which constructs individuals as alien to their home and host populations on the basis of their sexual orientation and gender identity – and manifests in physical attacks, harassment and homophobic violence against individuals believed to be ‘homosexual’. Both Ugandans, and Congolese asylum-seekers, refugees and migrants living in Uganda, regularly fell victim to such prejudices and violence committed often on the basis of dress, behaviour, or rumour.

Sifa was not alone. Amnesty International reported how in March 2014 three people were lured to a house in Kampala by men they met on social media. There they were physically assaulted while being subjected to homophobic insults. One of the people reported they were told ‘we are healing you from homosexuality’. Two of the people attacked fled and filed complaints with the police, but echoing Sifa, both told Human Rights Watch and Amnesty International that they were hesitant to follow up the police complaint out of fear that they themselves could be arrested. The same report recounts how in February 2014 a transgender woman was attacked and raped by three men at the home of an acquaintance. She sought medical treatment but was afraid to go to the police.<sup>52</sup>

Nor was this Sifa’s first experience of homophobic sexual violence in Uganda. Only a few years into her displacement Sifa was caught in her house with a woman and raped by multiple men from the neighbourhood, leading to pregnancy and the birth of her second child. Human rights abuses such as these have been documented by human rights organisations in Uganda, including by groups such as Amnesty International<sup>53</sup> and the Consortium on Monitoring Violations Based on Sex Determination, Gender Identity and Sexual Orientation<sup>54</sup> who reported 89 verified cases of violence against ‘LGBT’<sup>55</sup> people in Uganda in 2014. Groups including Human Rights Watch, Human Rights Watch, and Amnesty International have also widely documented persistent and pervasive violations of human rights across all regions of the world due to people’s real or perceived sexual orientation or gender identity. Violations include extra-judicial killings, torture and ill-treatment, arbitrary detention, sexual assault and rape, invasions of privacy, denial of healthcare, housing, education, employment and non-recognition of personal relationships.<sup>56</sup>

### **Listening to constellations of gendered harms**

Sifa’s stories compel us to ask deeper questions about the multiple ways the capricious violences<sup>57</sup> of this region are woven into the fabric of everyday life, where they are particular and general, visible and hidden.<sup>58</sup> Disaggregating conflict or repressive violence from intimate violence poses highly challenging conceptual and practical dimensions for transitioning societies.<sup>59</sup> South Africa has been identified as the quintessential example of these challenges,<sup>60</sup>

where the perceived spiraling of domestic violence rates post-apartheid challenge the notion that there is a clear distinction between pre-existing gendered apartheid violence and experiences of domestic and random gender-based violence in the transition phase. As domestic and other forms of violence experienced by women skyrocket, this peak of violence is not deemed relevant to security sector reform.<sup>61</sup> In Bosnia-Herzegovina the political climate has deteriorated over the years and patriarchal, ethno-nationalist, and religious values and norms have established a far from gender-just peace with shrinking political space for women.<sup>62</sup>

In addition to a range of 'private' harms that have often been silenced, feminist discourse has highlighted the impact of socio-economic violence on women and the continued marginalization of such harms in transitional justice.<sup>63</sup> For sexual minorities violence and persecution constitute attacks on both civil/political rights, as well as socio-economic harms across the political and intimate. Whilst some truth commissions, such as the Truth and Reconciliation Commission of Peru (2003), have begun to acknowledge socio-economic root causes of violence, few truth commissions have directly addressed socio-economic forms of violence.<sup>64</sup> Even where the truth commissions, such as the Sierra Leone Truth and Reconciliation Commission and the Guatemalan Commission of Historical Clarification, have addressed socio-economic-related violence, 'they have not done so exhaustively'.<sup>65</sup> In the Commission for Reception, Truth and Reconciliation in Timor-Leste (2005), whilst addressing the perpetration of forced displacement and famine, women were not given the space, or encouraged, to testify to broader gendered harms<sup>66</sup> and experiences of forced displacement were largely reduced to vulnerability to sexual violence following displacement.<sup>67</sup>

A commitment to listening to minority voices reveals wider sources and forms of violence that are – for the individuals – no less or more important, unfolding against a backdrop of protracted political conflict and displacement. A focus on sexual minority Congolese refugees therefore works here on several levels. Firstly it connects the fields of forced migration and transitional justice, considering the field of humanitarian refugee protection through the lens of transitional justice. As Hovil argues, a depoliticizing of the humanitarian space has disconnected displaced people from the wider political context and violence that led to their exile and, by extension, leaves them marginalized in peace processes, political transitions, and other mechanisms that are designed to allow them to return home and genuinely reintegrate. Transitional justice is a significant tool that could potentially move forced migration discussions toward more social and political engagement, not least through the recognition of displaced persons as rights-bearers. Furthermore, from a transitional justice perspective, dealing with the fall-out from displacement is critical to the future reconstruction of the state in the aftermath of conflict and to the rebuilding of the crucial bond of citizenship. Conversely, the failure to address the injustices that generated and were created by displacement calls into question the integrity of any transitional justice process and the potential durability of peace.<sup>68</sup>



Secondly, it highlights forms of violence – inclusive of public and private/intimate – that occur due to sexuality and may be neglected within more legalistic frames or broader hierarchies of harms. There has been critique regarding the ways in which recognition of gendered harm has continued to be shaped and constrained by the conceptual boundaries of law and the priorities of transitional justice.<sup>69</sup> Current recognition of sexual violence in transitional justice has not resulted in comprehensive rethinking of the concepts and hierarchies of violence inherent in international law.<sup>70</sup> The recognition of sexual violence is, of course, significant and necessary, but the reduction of gendered harm to sexual violence by transitional justice mechanisms has presented a narrow and distorted understanding of gendered experiences.<sup>71</sup> By making space in transitional justice for the lived experience of sexual minorities we can avoid imposing a ‘hierarchy of harms’ in which extra-ordinary instances of rape receive the lion’s share of attention at the expense of ordinary violence and the structural violence within which it occurs before, during, and after conflict and uncover gendered attitudes and ideologies that would drive future abuses in the transition to peace.

This is not only a call to include sexual minorities as yet another category of ‘victims’ within the transitional justice field, but to focus on creating safe spaces for minority voices. This must begin in humanitarian spaces, where the capacity of ground-level agencies must be raised in line with Principle 23 of the *Yogyakarta Principles*, which affirm that everyone has the right to seek and enjoy asylum from persecution, including persecution related to sexual orientation and gender identity.<sup>72</sup> Furthermore, they recommend the UNHCR integrate these principles to protect persons who experience, or have a well-founded fear of, persecution on the basis of sexual orientation or gender identity, and ensure that no person is discriminated against on the basis of sexual orientation or gender identity in relation to the receipt of humanitarian assistance or the determination of refugee status.<sup>73</sup> In Uganda, where homosexuality is both illegal and highly politicised, this is a particularly sensitive and complex task. The challenges are immense, yet the multiple urgencies demonstrated by Sifa’s experiences underscore the importance of work striving to achieve a gender-transformative approach under impossible conditions.

Efforts to strengthen civil society and community activism and support networks within both host and refugee populations are paramount; to recognize and support the work of existing community organisations and human rights institutions working above and below the radar; to reinforce local advocacy against both gender persecution and invidious legislation such as the Anti-Homosexuality Bill; but to also ensure sexual minority asylum seekers and refugees are incorporated within, and have access to, domestic activists and support mechanisms. Developing and/or implementing existing policies, guidance notes, training and accountability mechanisms for staff within humanitarian agencies and transitional justice processes, alongside relevant civil society actors and service providers, would raise awareness of, and progress towards addressing, the unique protection concerns of sexual minority asylum seekers and refugees. In so doing, however, the creation of such safe spaces must take care not to raise the visibility of sexual

minorities in the public realm, or those who strive to help them, which would – in contexts such as Uganda – place individuals and groups at greater threat of persecution and further violence. Developing a mechanism for the urgent protection of sexual minorities who face imminent harm is thus equally necessary. This raises important questions about how to address the risks sexual minority refugees face in interactions with local authorities and humanitarian staff, as well as the risks taken by humanitarian staff in their protection work.

The continued invisibility of sexual minorities is the result of insidious subjugation and stigmatization, and has marked implications not only for their ability to exercise agency to rebuild their lives and prevent future human rights violations, but also their ability to access any future forms of transitional justice. Without attention to the dominant gendered hierarchies that shape the violence against them we must ask if sexual minorities would ever get the chance to participate or give testimony in criminal trials or truth commissions. Likewise, the ‘normal’ pervasive sexual and physical violence against them is unlikely to be counted in the overall narrative of conflict or regime change and transition.

Despite hours of giving humanitarian testimonies between them, most sexual minority refugees I knew had never been able to recount stories about persecution and violence suffered on the basis of their sexuality, nor been able to report crimes to the police. This invisibility has, for many, reinforced their exclusion from a wider rights-bearing humanity. As Arendt argues, ‘We humanize what is going on in the world and in ourselves only by speaking of it, and in the course of speaking of it we learn to be human’.<sup>74</sup> A young man identifying as transgender often told me he longed to ‘regain my human being’. As Baines and Stewart argue, storytelling can permit people to ‘renegotiate their social marginalization and insist on their innocence and social worth’.<sup>75</sup> One man who described himself as ‘bio-sex’, asked of me, ‘can we get our rights as a human being, can it be possible? We are human beings like others? We need that right’. In repeated cases their exclusion fuels an internalised sense of a diminished or subjugated humanity. The repression of truth or shame of telling the truth can continue to prevent shattered selves from being restored.<sup>76</sup>

The perils and stakes of storytelling takes on a different hue in the face of the searing pain of a lifetime of social rejection, the forced cultural and political suppression of self and voice for not conforming to social norms, the constant vigilance required to hide and censor the contested ‘truths’ of one’s life, self and experiences in order to survive. As Sifa explained one afternoon: ‘I have cried in my life, until I say I will not cry. I found tears cannot help. I am confused, I don’t know how to help. I also get pressure, I feel my whole body is tired and cannot wake up.’ And on another:

‘I just keep quiet. There is no-one to stand up for you, there is no-one. For us we are voiceless, I have no voice in the community. When talking to someone who doesn’t

understand you, they don't listen. For them, when you become a gay you are nothing, you bring no development for country or family, they compare [you] to a dog. That is it.'

Practitioners of transitional justice are reminded that 'providing survivors of violence a space to tell each other stories may be just as important as pursuing formal justice goals' because the story can be 'the act through which people work through social tensions, misperceptions, discrimination, and injustice'.<sup>77</sup> To listen to stories 'unearths the complex ways violence undoes social fabric and challenges our humanity'.<sup>78</sup> This is especially poignant when we consider lifetimes of dehumanization and the internalization of a persistent denial of being human. Transitional justice processes must offer opportunities for minority voices to counter the untruths that continue to dehumanize them, and to reinstate parts of identity frequently redacted for survival in humanitarian spaces. Living out stories that break gender moulds can furthermore counter constricted notions of who is an active agent and thus are powerful antidotes to narrow repressive masculinized and feminized identities.<sup>79</sup> As Cobb argues, there is need for 'the development of an ethics of practice equipped to favour the development of stories that redress marginalization and anchor people's capacity for moral agency'.<sup>80</sup> Transitional justice practices must consider those who have been forced to equate truth and narrative with increased vulnerability to violence. For these individuals agency resides in silence – in the survival that accompanies non-disclosure – and the challenge is to create spaces in which agency can be restored to narrative in speaking against their everyday oppression.

### **Conclusion: Transitional justice beyond negative gendered peace**

Galtung emphasized that peace was not merely the absence of war, but the establishment of conditions for social justice. Violence in this conception are all those 'unavoidable insults to basic human needs, and more generally to *life*, lowering the real level of needs satisfaction below what is potentially possible'. He thus constructs a key distinction between negative and positive peace. Negative peace is the absence of armed conflict, and positive peace means the absence of both direct physical violence and indirect structural and cultural violence.<sup>81</sup> A critical, gender-informed approach reveals that bottom-up community-based transitional justice processes may privilege exclusionary and conservative politics and values,<sup>82</sup> and peace and justice processes are documented as often interacting with (ethno)nationalist and patriarchal structures to uphold and discipline gendered power relations that strip women of influence.<sup>83</sup> As a report by the ICTJ noted with particular attention to women, 'dominant hierarchies will marginalize women's priorities, interests and participation' and 'render invisible the gendered patterns and structures',<sup>84</sup> so it will be for sexual minorities. Ní Aoláin argues that if we take security to encompass a wide range of markers, where women continue to experience high levels of 'normal' sexual and physical violence within a transitional society, it becomes deeply problematic to expect women to make artificial distinctions between pre- and post-transition harms when the

experience of harm may be continuous.<sup>85</sup> Without a more transformative agenda, structural gendered hierarchies will continue to discipline the voices and bodies of sexual minorities through the end of conflict and beyond, and risk trapping them within a 'gendered negative peace' characterized by justice gaps and a complete absence of meaningful security in any post-conflict transitional phase.<sup>86</sup>

A gender-transformative approach to transitional justice is necessary, such as that put forward by Lambourne, which focuses on transforming psychosocial, socioeconomic and political power relations in society as a means to attaining human rights for women and men and building a sustainable peace.<sup>87</sup> A transformation in attitudes is sought along with alternative ways of conceiving of justice and accountability beyond legal prosecutions in order to make sure that laws are created and enforced in a way that deals with the root causes of rape and sexual violence in wartime, as well as in so-called peacetime.<sup>88</sup> A strong empirical focus on stories of violence, attending to what Chernoff describes as the 'view from ground level',<sup>89</sup> allows space not just for the voices of visible victims of violence in the DRC to emerge, but also those who do not conform to the neat victim norms produced in the grand narratives of different international, national, local regimes, such as male victims of sexual and gender-based violence, and the complex predicament of the region's sexual and gender minorities. As Sifa demands of us: 'listen to us, sexual violence is not only on the body, there is violence within the law, violence within the services, and violence across, in all arenas'.

## Notes

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<sup>1</sup> Her name and some details of her story have been altered to protect her identity.

<sup>2</sup> A. Björkdahl and J. Mannergren Selimovic, 'Gendering agency in transitional justice', *Security Dialogue* 46, no. 2 (2015): 165-182, 166.

<sup>3</sup> I deploy the term 'sexual minority' here to denote an individual with a gender identity or sexual orientation that does not conform to the heteronormativities of this region, ensuring that I do not artificially impose an identity or label upon any individual.

<sup>4</sup> F. Ní Aoláin, 'Women, Security, and the Patriarchy of Internationalized Transitional Justice', *Human Rights Quarterly* 31, no. 4 (2009): 1055-1085, 1066.

<sup>5</sup> In a continental context in which same-sex sexual activity was historically sanctioned in various forms and guises (See: M. Epprecht, *Hungochani: the history of a dissident sexuality in Southern Africa* (Montreal: McGill-Queens University Press, 2004); R. Morgan and S. Wierenga (eds), *Tommy Boys, Lesbian Men and Ancestral Wives: female same sex practices in Africa* (Johannesburg: Jacana, 2005); S O'Murray and W. Roscoe (eds), *Boy Wives and Female Husbands: studies in African homosexualities* (New York: Palgrave, 1998)), pernicious contemporary discrimination and violence in contexts such as DRC, and even more so Uganda, cannot be understood without recourse to the politicization of sexuality and sexual activity as they are placed at the core of nationalising projects, and in which homosexuality is denounced as an import from the West. See: J. Sadgrove, R. Vanderbeck, J. Andersson, G. Valentine and K. Ward, 'Morality plays and

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money matters: towards a situated understanding of the politics of homosexuality in Uganda', *The Journal of Modern African Studies* 50, no. 1 (2012): 103-129; R. Rao, 'Re-membering Mwanga: same-sex intimacy, memory and belonging in postcolonial Uganda', *Journal of Eastern African Studies* 9, no. 1 (2015): 1-19.

<sup>6</sup> Amnesty International, 'Rule by Law: Discriminatory Legislation and legitimized abuses in Uganda' (London: Amnesty International, 2014), 44. Available online: [https://www.amnesty.ca/sites/amnesty/files/p4461\\_uganda\\_report\\_web.pdf](https://www.amnesty.ca/sites/amnesty/files/p4461_uganda_report_web.pdf) (accessed 23 April 2016).

<sup>7</sup> W. Lambourne and V. Rodriguez Carreon, 'Engendering Transitional Justice: a Transformative Approach to Building Peace and Attaining Human Rights for Women', *Human Rights Review* (Published online 15 September 2015).

<sup>8</sup> A. Dal Secco, 'Truth and Reconciliation Commissions and Gender Justice', In D. Pankhurst (Ed.) *Gendered Peace. Women's Struggles for Post-war Justice and Reconciliation* (New York: Routledge, 2008), 67. See also: E. Porter, 'Gender-Inclusivity in Transitional Justice Strategies: Women in Timor-Leste,' In S. Buckley-Zistel and R. Stanley (Eds.) *Gender in Transitional Justice* (Basingstoke: Palgrave Macmillan, 2012).

<sup>9</sup> F. Ní Aoláin, and C. Turner, 'Gender, Truth and Transition,' *UCLA Women's Law Journal* 16 (2007): 229-279; F. Ní Aoláin, 'Women, Security, and the Patriarchy of Internationalized Transitional Justice', 1056; C. Bell, C. Campbell, and F. Ní Aoláin, 'Justice Discourses in Transition,' *Social and Legal Studies* 13 (2004): 305; K. Franke, 'Gendered subjects of transitional justice,' *Columbia Journal of Gender and Law* 15, no. 3 (2006): 813-828.

<sup>10</sup> K. Grewal, 'Rape in conflict, rape in peace: Questioning the revolutionary potential of international criminal justice for women's human rights', *Australian Women's Feminist Law Journal* 33 (2010): 57-79; N. Henry, 'Witness to rape: The limits and potential of international war crimes trials for victims of wartime sexual violence', *International Journal of Transitional Justice* 3 (2009): 114-134; P. Scully, 'Should we give up on the state? Feminist theory, African gender history and transitional justice', *African Journal on Conflict Resolution* 9 (2009): 29-43. This includes the multiple 'social services justice' needs of women, see Ní Aoláin et al. *On the Frontlines: Gender, War, and the Post-conflict Process* (Oxford: Oxford University Press, 2011), 264.

<sup>11</sup> H. Myrntinen, J. Naujoks, and J. El-Bushra, *Re-thinking Gender in Peacebuilding* (London: International Alert, 2014), 5.

<sup>12</sup> Ní Aoláin and Turner, 'Gender, Truth and Transition', 245.

<sup>13</sup> For an in-depth account of violence intersecting across ethno-national, sexuality and gender markers, see Alex's stories in K. McQuaid, 'Violent Continuities: Telling stories of one sexual minority life in the African Great Lakes region,' *Identities: Global Studies in Culture and Power* 21, no. 5 (2014): 570-585.

<sup>14</sup> In the field of transitional justice see: K. Fobear, 'Queering Truth Commissions', *Journal of Human Rights Practice* 6, no. 1 (2014): 51-68; K. Muddell, 'Sexual Minorities Study: LGBT Issues and Transitional Justice', Paper presented at the Open Society Institute Forum: Gender and Transitional Justice (New York City: International Center for Transitional Justice, 7 February

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2007); V. Nesiha, *Truth Commissions and Gender: Principles, Policies and Procedures* (New York: International Center for Transitional Justice, 2006); and in the field of humanitarianism see: J. Rumbach and K. Knight, 'Sexual and Gender Minorities in Humanitarian Emergencies' in L. Roeder (Ed.), *Issues of Gender and Sexual Orientation in Humanitarian Emergencies: Risks and Risk Reduction* (Switzerland: Spring International Publishing: Humanitarian Solutions in the 21<sup>st</sup> Century, 2014); C. Dolan, 'Letting go of the gender binary: Charting new pathways for humanitarian interventions on gender-based violence', *International Review of the Red Cross* 96, no. 894 (2014): 485-501; Human Rights First, *Persistent Needs and Gaps: The Protection of Lesbian, Gay, Bisexual, Transgender and Intersex (LGBTI) Refugees: An Overview of UNHCR's Response to LGBTI Refugees and Recommendations to Enhance Protection* (30 September 2010. Available online: [http://www.humanrightsfirst.org/wp-content/uploads/pdf/Persistent-Needs\\_LGBTI\\_Refugees\\_FINAL.pdf](http://www.humanrightsfirst.org/wp-content/uploads/pdf/Persistent-Needs_LGBTI_Refugees_FINAL.pdf); accessed 23 April 2016).

<sup>15</sup> S. Buckley-Zistel and M. Zolkos, 'Introduction: Gender in transitional justice', In S. Buckley-Zistel and R. Stanley (Eds.) *Gender and Transitional Justice* (Basingstoke: Palgrave Macmillan, 2012); S. Meintjes, A. Pillay and M. Turshen (Eds.) *The Aftermath: Women in Postconflict Societies* (London and New York: Zed Books, 2001); L. Sjoberg and C. Gentry, *Mothers, Monsters, Whores: Women's Violence in Global Politics* (London: Zed Books, 2008).

<sup>16</sup> Ní Aoláin et al. 'On the Frontlines', 69.

<sup>17</sup> S. Tamale, 'Paradoxes of sex work and sexuality in modern-day Uganda', In S. Tamale (Ed.), *African Sexualities: A Reader* (Cape Town: Pambazuka Press, 2011), 147.

<sup>18</sup> L. Shepherd, 'Introduction: Rethinking Gender, Agency and Political Violence', In L. Åhäll & L. J. Shepherd (Eds.), *Gender, Agency and Political Violence* (London: Palgrave Macmillan, 2012), 5.

<sup>19</sup> P. Kirby, 'How Is Rape A Weapon of War?: Feminist International Relations, Modes of Critical Explanation and the Study of Wartime Sexual Violence', *European Journal of International Relations* (2012), 4; K. Hutchings, 'Towards a Feminist International Ethics', *Review of International Studies* 26, no. 5 (2000): 111-130; J. Tickner, 'You Just Don't Understand: Troubled Engagements Between Feminists and IR Theorists', *International Studies Quarterly* 41, no. 4 (1997): 611-632; M. Zalewski, 'Well, What is the Feminist Perspective on Bosnia?', *International Affairs* 71, no. 2 (1995): 339-356.

<sup>20</sup> J. Elshtain, *Women and War* (Chicago, IL: University of Chicago Press, 1995); C. Enloe, 'Margins, Silences and Bottom Rungs: How to Overcome the Underestimation of Power in the Study of International Relations', In S. Smith, K. Booth, and M. Zalewski (Eds.) *International Theory: Positivism and Beyond* (Cambridge: Cambridge University Press, 1996); C. Harrington, *Politicization of Sexual Violence: From Abolitionism to Peacekeeping* (London, UK: Ashgate, 2010); Kirby, 'How Is Rape A Weapon of War'; P. Owens, 'Distinctions, Distinctions: "Public" and "Private" Force?' *International Affairs* 84, no. 5 (2008): 977-990.

<sup>21</sup> P. Bourdieu, 'Gender and Symbolic Violence', In N. Scheper-Hughes & P. Bourgois (Eds.) *Violence in War and Peace: An Anthology* (Oxford, UK: Blackwell Publishing Inc, 2004), 339.

<sup>22</sup> J. Butler, *Frames of War: When is Life Grievable?* (London: Verso, 2009), 2.

<sup>23</sup> McQuaid, 'Violent Continuities'.

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<sup>24</sup> See T. Iosifides and D. Sporton, 'Editorial: Biographical methods in migration research', *Migration Letters* 6, No: 2 (2009): 101–108.

<sup>25</sup> D. Zeitlyn, 'Life-history writing and the anthropological silhouette', *Social Anthropology* 16, no. 2 (2008): 154–171, 159.

<sup>26</sup> J. Comaroff and J. Comaroff, *Ethnography and the historical imagination* (Oxford: Westview, 1992), 25.

<sup>27</sup> McQuaid, 'Violent Continuities'.

<sup>28</sup> See F. Warner, 'The Testimonio Method in Refugee Research: Practicing Advocacy and Feminism in an Ethnographic Encounter with Q'eqchi' and K'iche' Women.' in R. Krulfeld & J. MacDonald (Eds.), *Power, Ethics, and Human Rights: Anthropological Studies of Refugee Research and Action* (Oxford: Rowman and Littlefield Publishers, Inc., 1998): 78–9, 87.

<sup>29</sup> T. Turner, *The Congo Wars: Conflict, Myth and Reality*. (London: Zed Books, 2007), 116.

<sup>30</sup> International Rescue Committee and Burnet Institute, *Measuring Mortality in the Democratic Republic of Congo*, (2008), See IRC website, [http://www.theirc.org/sites/default/files/resource-file/IRC\\_DRCMortalityFacts.pdf](http://www.theirc.org/sites/default/files/resource-file/IRC_DRCMortalityFacts.pdf) (accessed 1 September 2010).

<sup>31</sup> L. Roberts, 'Mortality in Eastern DRC. Results from Five Mortality Surveys by the IRC', (Bukavu, DRC, 2000); V. Brittain, 'Calvary of the Women of Eastern Democratic Republic of Congo (DRC)', *Review of African Political Economy* 29, no. 93/94 State Failure in the Congo: Perceptions & Realities (Le Congo entre Crise et Regeneration) (2002): 595–601.

<sup>32</sup> G. Prunier, *From Genocide to Continental War: The "Congolese" Conflict and the Crisis of Contemporary Africa* (London, UK: Hurst & Company, 2009); F. Reyntjens, *The Great African War: Congo and Regional Geopolitics, 1996-2002* (Cambridge, UK: Cambridge University Press, 2009); K. Emizet, 'The massacre of refugees in Congo: a case of UN peacekeeping failure and international law,' *The Journal of Modern African Studies*, 38, no. 2 (2000): 163–202; C. Clark-Kazak, *Recounting Migration: Political Narratives of Congolese Young People in Uganda* (McGill: Queen's University Press, 2011); J. Pottier, *Re-Imagining Rwanda: Conflict, Survival and Disinformation in the Late Twentieth Century* (Cambridge: Cambridge University Press, 2002).

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<sup>34</sup> Franke, 'Gendered subjects of transitional justice'; F. Ní Aoláin et al, 'On the Frontlines'; D. Sankey, 'Gendered Experiences of Subsistence Harms: A Possible Contribution to Feminist Discourse on Gendered Harm?', *Social and Legal Studies* 24, no. 1 (2015): 25-45; M. Urban

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<sup>35</sup> Ní Aoláin, 'Women, Security, and the Patriarchy of Internationalized Transitional Justice', 1059.

<sup>36</sup> Eriksson Baaz and Stern, 'The Complexity of Violence', 44; D. Lewis, 'Unrecognized Victims: Sexual Violence Against Men in Conflict Settings Under International Law', *Wisconsin International Law Journal* 27 (2009): 1–49, 9; S. Sivakumaran, 'Lost in Translation: UN Responses to Sexual Violence Against Men and Boys in Situations of Armed Conflict', *International Review of the Red Cross* 92 (2010): 259–77, 255.

<sup>37</sup> Grewal, 'Rape in conflict, rape in peace'.

<sup>38</sup> Lambourne and Rodríguez Carreón, 'Engendering Transitional Justice'.

<sup>39</sup> C. Blacklock and A. Crosby, 'The sounds of silence: Feminist research across time in Guatemala', in W. Giles and J. Hyndman (Eds.) *Sites of Violence: Gender and Conflict Zones* (Berkeley: University of California Press, 2004), 53; G. Kibreab, 'Displacement, host government's policies, and constraints of sustainable livelihoods', *International Social Science Journal* 55 (2003): 57–67.

<sup>40</sup> Kirby, 'How Is Rape A Weapon of War?', 4.

<sup>41</sup> Lambourne and Rodríguez Carreón, 'Engendering Transitional Justice'.

<sup>42</sup> UNHCR Uganda, <http://www.unhcr.org/pages/49e483c06.html> (accessed January 2013).

<sup>43</sup> C. Clark-Kazak, *Recounting Migration: Political Narratives of Congolese Young People in Uganda* (Montreal and Kingston: McGill-Queen's University Press, 2011): 31–2.

<sup>44</sup> L. Hovil, 'Self-Settled Refugees in Uganda: An Alternative Approach to Displacement?', *Journal of Refugee Studies* 20, no. 4 (2007): 599–620.

<sup>45</sup> *Ibid.*, 601.

<sup>46</sup> See K. McQuaid, "'We raise up the voice of the voiceless": Voice, rights and resistance amongst Congolese Human Rights Defenders in Uganda,' *Refugee Special Issue on Refugee Voices* 32, no. 1 (2016): 50–59, 54.

<sup>47</sup> In 2010 Human Rights First (see note 14, 6–12) reported significant protection gaps in UNHCR's protection of sexual minority refugees and asylum seekers, including inadequate recognition of 'LGBTI' (lesbian, gay, bisexual, transgender, intersex) persons as a category of persons with particular needs, an absence of practical guidance to ensure LGBTI refugees and asylum seekers are protected in practice, and inconsistencies in current protection guidance with regard to sexual orientation and gender identity. However, whilst there is demonstrably work needed to translate policy into practice amongst country-level staff in the humanitarian field of Uganda, the UNHCR has made active progress on its 'Age, Gender and Diversity' (AGD) policy which aims to 'promote progress toward a situation of full equality', inclusive of 'different values, attitudes, cultural perspective, beliefs, ethnic background, nationality, sexual orientation, gender identity, ability, health, social status, skill and other specific characteristics' (UNHCR, *Age, Gender*



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and Diversity Policy: Working with people and communities for equality and protection (2011, para. 5. Available online: <http://www.unhcr.org/4e7757449.html>; accessed 25 May 2016). The UNHCR draws on the *Yogyakarta Principles*, which provide a set of guiding principles on the application of human rights law in relation to sexual orientation and gender identity (2006. Available online: [http://www.yogyakartaprinciples.org/principles\\_en.pdf](http://www.yogyakartaprinciples.org/principles_en.pdf); accessed 13 May 2016). Dolan ('Letting go of the gender binary', 489) cites 'a growing recognition of the rights of LGBTI persons' visible 'in increasing efforts by the UNHCR to understand and in some situations respond to the specific needs of LGBTI asylum seekers and refugees'. The 'UNHCR should be commended' on its: *Guidelines on International Protection No. 9: Claims to Refugee Status based on Sexual Orientation and/or Gender Identity within the Context of Article 1A(2) of the 1951 Convention and/or its 1967 Protocol Relating to the Status of Refugees*, HCR/GIP/12/09 (23 October 2012. Available online: [www.unhcr.org/cgi-bin/texis/vtx/home/opendocPDFViewer.html?docid=509136ca9&query=lgbt%20policy](http://www.unhcr.org/cgi-bin/texis/vtx/home/opendocPDFViewer.html?docid=509136ca9&query=lgbt%20policy); accessed 14 May 2016); *Need to Know Guidance Note 2 on 'Working with Lesbian, Gay, Bisexual, Transgender and Intersex Persons in Forced Displacement'* (2011. Available online: <http://www.refworld.org/pdfid/4e6073972.pdf>; accessed 14 May 2016); and on the availability of an extensive collection of LGBTI-related policy, legal and other documentation online at: [www.refworld.org/sogi.html](http://www.refworld.org/sogi.html) (accessed 14 May 2016).

<sup>48</sup> 'Survival sex' refers to the practice of engaging in sex work to attain basic rights, such as food, shelter or healthcare. For the Ugandan humanitarians I observed using this terminology, this could include trading sex directly for food, shelter or medication, or trading sex for money to obtain such necessities for survival.

<sup>49</sup> Ugandan shillings, which had a value of around \$4 at the time of telling.

<sup>50</sup> S. Tamale, 'Paradoxes of sex work', 146.

<sup>51</sup> *Ibid.*, 147.

<sup>52</sup> Amnesty International, 'Rule by law', 44, 46.

<sup>53</sup> *Ibid.*

<sup>54</sup> 'Uganda Report of Violations Based on Gender Identity and Sexual Orientation' (July 2015. Available online: [https://www.outrightinternational.org/sites/default/files/15\\_02\\_22\\_lgbt\\_violations\\_report\\_2015\\_final.pdf](https://www.outrightinternational.org/sites/default/files/15_02_22_lgbt_violations_report_2015_final.pdf); accessed 13 May 2016).

<sup>55</sup> Lesbian, Gay, Bisexual and Transgender.

<sup>56</sup> Human Rights First, 'Persistent Needs and Gaps', 405. See respectively: <http://www.humanrightsfirst.org/topics/lgbt> (accessed 25 May 2016); [www.hrw.org/lgbt](http://www.hrw.org/lgbt) (accessed 25 May 2016); <https://www.amnesty.org.uk/issues/LGBTI-rights> (accessed 25 May 2016); see also: M. O'Flaherty and J. Fisher, 'Sexual Orientation, Gender Identity and International Human Rights Law: Contextualising the Yogyakarta Principles', *Human Rights Law Review* 8, no. 2 (2008): 208-214.

<sup>57</sup> I use the plural 'violences' to move beyond eventcentric approaches to highlight the multiple forms of violence that occur through time and space, and the multiple and diverse ways in which

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they are experienced, understood, articulated, and perpetrated by those on the ground. In this way it is more difficult to lapse into prioritizing any particular experience of violence at the expense of a more nuanced approach to multiple and intersecting violences.

<sup>58</sup> R. Chatterji and D. Mehta, *Living with violence: an anthropology of events and everyday life* (Michigan: Routledge, 2007), 1.

<sup>59</sup> Ní Aoláin, 'Women, Security, and the Patriarchy of Internationalized Transitional Justice', 1076; J. Boesten, *Sexual Violence during War and Peace: Gender, Power, and Post-Conflict Justice in Peru* (Palgrave Macmillan, 2014); F. Ross, *Bearing Witness: Women and the Truth and Reconciliation Commission in South Africa* (London: Pluto Press, 2003)

<sup>60</sup> S. Gear, 'Wishing Us Away: Challenges Facing Ex-combatants in the "New" South Africa,' *Violence and Transition* Series 8 (2002).

<sup>61</sup> B. Hamber, "'We Must Be Very Careful How We Emancipate Our Women": Shifting Masculinities in Post-Apartheid South-Africa,' *UK Economic and Social Research Council New Security Challenges Programme, Working Paper* (2006).

<sup>62</sup> A. Björkdahl, 'A gender-just peace? Exploring the post-Dayton peace process in Bosnia,' *Peace and Change* 37, no. 2 (2012): 171-337; A. Björkdahl, 'Deliberating and localizing just peace,' in K. Aggestam and A. Björkdahl (Eds.) *Rethinking Peacebuilding: The Quest for Just Peace in the Middle East and the Western Balkans*. (Abingdon and New York: Routledge, 2013); C. Cockburn, 'Against the odds: Sustaining feminist momentum in post-war Bosnia-Herzegovina,' *Women's Studies International Forum* 37, no. 1 (2013): 26-35.

<sup>63</sup> Franke, 'Gendered subjects of transitional justice'; Sankey, 'Gendered Experiences of Subsistence Harms', 26; Ní Aoláin and Turner, 'Gender, Truth and Transition,' 229; Ní Aoláin et al. 'On the Frontlines'.

<sup>64</sup> Office of the High Commissioner for Human Rights (OHCHR) *Transitional Justice and Economic, Social and Cultural Rights* (New York and Geneva: OHCHR, 2014), 17.

<sup>65</sup> Ibid.

<sup>66</sup> S. Harris Rimmer, 'Women cut in half: Refugee women and the Commission for reception, truth seeking and reconciliation in Timor-Leste,' *Refugee Survey Quarterly* 29, no. 2 (2010): 85-103.

<sup>67</sup> Commission for Reception, Truth and Reconciliation in Timor-Leste (CAVR), *Chega!*, (2005). Available at: <http://www.cavr-timorleste.org/en/chegaReport.htm> (accessed 2 January 2016), paras 495-498.

<sup>68</sup> L. Hovil, 'The Nexus between Displacement and Transitional Justice: A Gender-Justice Dimension'. (New York: International Center for Transitional Justice, 2013). Available at: <https://www.ictj.org/publication/nexus-between-displacement-and-transitional-justice-gender-justice-dimension> (Accessed 22 January 2016).

<sup>69</sup> C. Bell and C. O' Rourke, 'Does feminism need a theory of transitional justice? An introductory essay,' *International Journal of Transitional Justice* 1, no. 1 (2007): 23-44; V. Nesiha, 'Missionary zeal for a secular mission: Bringing gender to transitional justice and redemption to feminism,' in

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S. Kouvo and Z. Pearson (Eds.) *Feminist Perspectives on Contemporary International Law: Between Resistance and Compliance?* (Oxford: Hart, 2011), 143; Ní Aoláin et al., 'On the Frontlines'; Sankey, 'Gendered Experiences of Subsistence Harms', 28-9.

<sup>70</sup> Sankey, 'Gendered Experiences of Subsistence Harms', 28; C. Mibenge, *Sex and International Tribunals: The Erasure of Gender from the War Narrative* (Pennsylvania Studies in Human Rights, University of Pennsylvania Press, 2013).

<sup>71</sup> Franke, 'Gendered subjects of transitional justice', 822-823.

<sup>72</sup> Yogyakarta Principles, Principle 23, 27.

<sup>73</sup> Yogyakarta Principles, Additional Recommendation G, 32.

<sup>74</sup> H. Arendt, *Men in Dark Times* (Harmondsworth: Penguin, 1973), 32.

<sup>75</sup> E. Baines and B. Stewart, "'I cannot accept what I have not done": Storytelling, Gender, and Transitional Justice', *Journal of Human Rights Practice* 3, no. 3 (2011): 245–263, 247.

<sup>76</sup> E. Porter, 'Gendered Narratives: Stories and Silences in Transitional Justice', *Human Rights Review* (Published online 17 November 2015).

<sup>77</sup> Baines and Stewart, 'Storytelling, Gender, and Transitional Justice', 260.

<sup>78</sup> E. Baines, 'Gender, Responsibility, and the Grey Zone: Considerations for Transitional Justice', *Journal of Human Rights* 10, no. 4 (2011): 477-493, 490.

<sup>79</sup> Porter, 'Gendered Narratives'.

<sup>80</sup> S. Cobb, *Speaking of Violence: The Politics and Poetics of Narrative Dynamics in Conflict Resolution* (Oxford: Oxford University Press, 2013), 12.

<sup>81</sup> J. Galtung, 'Peace by Peaceful Means', *Development and Civilization* (1996), 197.

<sup>82</sup> C. O'Rourke, 'The shifting signifier of 'community' in transitional justice: A feminist analysis', *Wisconsin Journal of Law, Gender and Society* 23 (2008): 269-291.

<sup>83</sup> For example, Cockburn, 'Against the odds'; Meintjes et al. 'The Aftermath'; N. Yuval-Davis, *Gender & Nation* (London: SAGE, 2008); L. Handrahan, 'Conflict, gender, ethnicity and post-conflict reconstruction', *Security Dialogue* 35, no. 4 (2004): 429-445.

<sup>84</sup> V. Nesiha et al, *International Centre for Transitional Justice, Truth Commissions and Gender: Principles, Policies, and Procedures* (2006), 43-4.

<sup>85</sup> Ní Aoláin, 'Women, Security, and the Patriarchy of Internationalized Transitional Justice', 1069.

<sup>86</sup> Björkdahl and Mannergren Selimovic, 'Gendering agency in transitional justice', 165.

<sup>87</sup> W. Lambourne, 'Transitional justice and peacebuilding after mass violence', *International Journal of Transitional Justice* 3 (2009): 28-48.

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<sup>88</sup> Lambourne and Rodriguez Carreon, 'Engendering Transitional Justice'.

<sup>89</sup> J. Chernoff, *Hustling Is Not Stealing: Stories of an African Bar Girl* (London: The University of Chicago Press, 2003), 31.