

THE WORLD'S BIGGEST MINORITY? Refugee Women and Girls in the Global Compact on Refugees

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Extended version October 2017



Is The International Protection System Failing Refugee Women And Girls?

There are strong commitments related to gender equality and rights of refugee women and girls in the New York Declaration for Refugees and Migrants. Sadly, these commitments reflect the reality that much of the comprehensive law and policy developed over the past 30 years to address the protection needs of refugee women and girls are not working. They still suffer endemic rape and sexual abuse and lack access to many of the protection measures and durable solutions, which should be available to all refugees. The immense social capital and capacities of refugee women and girls are often unrecognized and underutilized, and their voices are silenced. Major barriers block their access to parity with men and boys. While this continues to occur, women and girls remain at risk and 50% of the potential contributions to solutions and problem solving from the refugee communities is lost.

Gender Inequality

Major obstacles to the provision of adequate responses to women and girls is their ongoing lack of gender equality and the ways in which they are designated in law and policy. The most common labels are those of “minority” and “vulnerable” groups. These reflect both the political and ideological positions of much policy and law and have an extremely detrimental impact on the protection of women and girls.

Women as Minority Groups

At least half of the total number of refugees in the world are women and girls. However, they are most often classified in law, policy and practice as a minority group along with people with a disability, youth and children, members of the LGBTI community, the elderly and people from small ethnic groups or religions. **It is important to note that women and girls also constitute 50% of all of these minority groups.** However, the word minority is

not used here to refer to numbers. Groups which are labeled as “minority groups” are those known to suffer from discrimination and subordination because of their status, are differentiated from those who hold positions of social power have unequal access to decision-making, infrastructure and resources, receive differential treatment from those in power, and have their personal capacities ignored. (Khan, R. Laurie, T. (2017), Wirth 1970). This is the experience of most refugee women. Research has shown that prolonged exposure to discrimination and subordination can lead to people identifying with a “minority” label”. By definition, all refugees are a minority group on the international stage.

Women and girls as “vulnerable groups”

Women and girls are also categorized as a “vulnerable” group with an emphasis on personal vulnerability. However they are not inherently vulnerable but rather placed in situations, which create or exacerbate vulnerability and human rights abuses. Multiple levels of discrimination are inherent in the labels “minority” and “vulnerable” and compound the difficulties faced by women and girls. It is also important to note that refugee women and girls in all their diversity are not a “special needs” group. While sharing the same basic needs for food, water, shelter, sanitation and security with men and boys, they do have **different** needs and face additional difficulties in accessing these (Freedman, 2015; Forbes-Martin, 2003). In order to meet the standard of gender equality and inclusion expected in the Global Compact on Refugees, the needs of both groups must be specifically acknowledged and equally addressed in all legal and policy provisions.

The experience and potential vulnerabilities of women and girls are significantly different from those of men and boys. Cultural differences often give women lower social status, and place them in a position of dependency to men. Lack of educational opportunities make it more difficult for them to access decision-making positions and safe livelihoods opportunities. They also face multiple additional barriers accessing services including legal protection, reproductive and other health services. Something as basic as the lack of sanitary materials for menstruating girls and women can prevent participation in activities which address vulnerability. Other barriers include inaccessible asylum systems and gender-blind needs assessments, limited access to education, pathways to appropriate employment, reproductive health care and safe livelihood opportunities¹. The most important difference is that of widespread sexual and gender based violence (UNHCR 2011, UNSC 2017,).

Sexual and Gender Based Violence

As mentioned above, a major protection issue for the majority of refugee women and girls is that of sexual and gender-based violence. This includes systematic rape in conflict and post-conflict situations, rape as a method of control of community and destroying families, rape of women as a punishment for men in a community, sexual assault, sexual torture, sexual slavery, trafficking, corrective rape of LGBTI identifying women, early and forced marriage, female genital mutilation, and domestic violence (Pittaway, 2008; 2009; Pittaway & Pittaway, 2010; UNHCR, 2011). SGBV exists in all refugee situations and is a cause of flight, risk en route, in countries of first asylum and often continues during resettlement (Bartolomei, Eckert & Pittaway, 2014). This constant threat, and the physical, emotional and psychological effects of this is the major pillar of their vulnerability. Men and boys also suffer from sexual violence. This abuse has severe consequences for both groups. These

¹ WRC, Advocacy Brief: Making the Global Compact work for Refugee Women and Girls, September 2017
<https://www.womensrefugeecommission.org/general-resources/1522-making-global-compact-on-refugees-work-for-all-women-girls-recommendations>

include severe psychological impacts, physical damage, and sexually transmitted diseases. Women additionally face bearing children of rape, young girls frequently die from pregnancy when they are too young to bear a child, women and girls are often marginalized from families or communities and bear a huge burden of shame. Disabled women and young girls are often targeted for rape, and many face forced marriage. Lesbian and transgender women are sometimes killed. Many women are forced to engage in survival sex to feed themselves and their families, and they face the additional stigma of being branded as a prostitute (UNHCR 2011(2)). Men are shamed because they cannot protect their women and girls, and whole communities suffer collective guilt.

Sexual violence and gender-based discrimination occurs in all aspects of refugee women's lives and crosscuts all of the areas of the protection which they should receive from the international community. Intersecting factors such as age, disability, ethnicity, sexual orientation and others further compound the risks. Refugee women and girls are among the most marginalized people in the world. This marginalization culminates in a range of human rights violations. There is little or no legal redress and perpetrators function with impunity (Pittaway and Pittaway, 2004:4). It is impossible to improve the status of refugee women and girls without addressing this unpalatable truth².

There is a danger in focusing just on the vulnerabilities of women and girls, as it can create a discourse of helpless victims. Refugee women and girls are also strong, resilient and have immense social capital and capabilities. Conversely, if we focus only on the strengths and abilities of women and girls this brings the danger of ignoring the widespread challenges, discrimination and abuse they survive. Refugee women and girl are simultaneously strong and resourceful, victims and marginalised. They survive despite the vulnerable situations in which they find themselves. Refugee women's protection needs must be addressed equally with those of those of men and boys. This involves addressing structural vulnerabilities underpinned by pervasive gender inequalities as well as creating opportunities for their strengths to be capitalised.

Ways Forward - Acknowledging the strengths and capacities of refugee women and girls

Despite the layers of discrimination faced by refugee women and girls, they are not just passive victims. In many camps and refugee sites, women run crèches for children, arrange care for orphaned or lost children, provide safe spaces for women who have experienced sexual and gender based violence, manage scarce rations to ensure that families are fed, run small businesses to provide some meager additional support for their families, organise basic schools, and provide protection such as the building of thorn fences to protect themselves and their families (Bartolomei 2015; Olivius, 2014). Much of this work is done without funding or external support. In the absence of men, women take on all roles in the family and community. These activities are undertaken by women who hold both formal, but also a wide range of informal skills and have a huge capacity. They also have a keen analysis of the problems experienced in camps and cities and of potential solutions. However, because of their minority status, and the discourse of vulnerability, their capacities, skills and abilities often go unrecognized. Women are silenced by limited access to representation at every level, little access to education, culture, tokenism, gender stereotypes and lack of funding for targeted programs.

² United Nations Security Council Resolution 2242 (2015) urges Member States to strengthen access to justice for women in conflict and post-conflict situations, including through the prompt investigation, prosecution and punishment of perpetrators of sexual and gender-based violence, as well as reparation for victims as appropriate.

Recent moves to include women of all ages, sexual orientation, disabilities and age groups and minority groups, in all aspects of decision making, from peace building to planning for durable solutions is to be applauded. It is a positive step towards harnessing their enormous potential and capacity to be part of the solution rather than part of the problem. However, women need support to contribute effectively in new and potentially discriminatory forums, and to avoid tokenism (Forbes-Martin, 2003, Puri, L. 2017). Training in leadership skills, advocacy, human rights law, formal meeting procedure and public speaking is needed to enhance their participation. Without this support, the participation of women and girls in decision making processes can be tokenistic if they are not able to participate effectively. Most importantly, the pendulum swing to focus on the strengths and abilities of refugee women and girls without recognizing the barriers that create minority status and vulnerability is equally dangerous.

Value of self-representation

As noted above, because of their minority status, and discourse of vulnerability, the capacities, skills and abilities of refugee women and girls often go unrecognized. The politics and ideologies underpinning much service provision has meant that they are excluded from access to protection measures, and from decision making both by their communities, and by service providers. This has meant the loss of an immense body of social capital which could be used to address problems and durable solutions. It has resulted in the continual production of a large group of people who are vulnerable, who cannot access adequate protection measures, and who are failed by the international system.

Women are not voiceless, but they are silenced (Roy, 2004). They are silenced by a patriarchal system that limits their ability to access spaces of power and decision making, by limited access to representation at every level, lack of knowledge for example of how to participate in formal meetings at UN, lack of control of their own bodies (reproductive and sexual health), lack of access to educational opportunities and cultural norms and practices which privilege men over women.

Inclusion of women and girls **in all forums** from local meetings and committees, in decision making processes about solutions and at the United Nations is a positive step towards harnessing their enormous potential and capacity to be part of the solution rather than part of the problem. Inclusion in decision making can address the intersectional issues which identify them as members of a minority group and as vulnerable. Representation at UN meetings is highly symbolic, and models to States and other actors that women have capacity, and can contribute very positively to the debate. As models for other women and for refugee communities, it challenges some of the worst aspects of “minority status”. (CRR 2014)

At a local level their experience, cultural knowledge and wisdom can guide improved service provision and use of resources. Participation of female community representatives in positions of power and influence helps foster collective resilience. The successful inclusion of women into positions which produce positive outcomes for communities begins to address cultural barriers to women’s human rights (Bartolomei, Hamidi, Mohamed & Ward, 2016; UNHCR, 2011; UN General Assembly, 2015).

Women and Girls in the New York Declaration and the Comprehensive Refugee Response Framework

There are strong commitments related to gender equality and rights of refugee women and girls in the New York Declaration for Refugees and Migrants³.

It is therefore critically important that the key commitments (listed below) be reflected in the four pillars of the Comprehensive Refugee Response Framework (CRRF). Which are: (1) Reception and admission; (2) Support for immediate and ongoing needs; (3) Support for host countries and communities; (4) Durable solutions and operationalized in the Program for Action.

Commitments to Women and Girls in the New York Declaration

- Recognize and address the special needs of all women and girls at risk, in accordance with obligations under international law (23) and fully respect and protect the human rights of women and girls (31)
- Ensure all responses mainstream a gender perspective, promote gender equality and the empowerment of all women and girls (31) including resettlement programmes (15)
- Recognize and take steps to address the particular vulnerabilities of women and girls during the journey from country of origin to country of arrival, including their potential exposure to discrimination and exploitation, as well as to sexual, physical and psychological abuse, violence, victims of trauma and survivors of sexual violence, human trafficking and contemporary forms of slavery (29, 31, 5e);
- Combat sexual and gender-based violence to the greatest extent possible. (31, 5a);
- Provide access to essential sexual and reproductive health-care services (31, 83, 5c);
- Encourage and empower refugees at the outset of an emergency phase, with emphasis on age- and gender-sensitive systems, protection and empowerment of women and children (7c);
- Tackle the multiple and intersecting forms of discrimination against refugee and migrant women and girls (31);
- Recognize the significant contribution, skills, capacities and leadership of women in refugee and migrant communities, work to ensure their full, equal and meaningful participation in the development of local solutions and opportunities, reconciliation and dialogue, and peace and reconciliation processes. (31, 12d, 12e, 13c).

While all women and girls in transit between countries, both migrants and refugees, have special needs, refugee women and girls face different protection risks and international refugee law provides for safeguards to protect those in need of international protection⁴.

³ United Nations General Assembly, *New York Declaration for Refugees and Migrants: resolution / adopted by the General Assembly*, 3 October 2016.

⁴ A variety of terms are used to describe refugees, such as “undocumented people” or “vulnerable migrants”, possibly with the idea of making a stronger case for the rights of all people on the move. However, this has caused confusion and inadvertently provided fodder for those who wish to undermine refugees’ rights. Reopening a discussion of what has been the bedrock of international protection for nearly seven decades risks becoming an exercise in weakening existing standards, reducing them to the lowest common denominator, again to the detriment of the millions of refugees who must rely upon this system for their survival. Volker Türk, October 9 2017. <http://www.unhcr.org/en-au/news/press/2017/10/59d4cb234/unhcrs-volker-turk-warns-threats-global-asylum-environment-key-address.html>

Unpacking a seemingly intractable problem- Why is current excellent policy on the protection of refugee women and girls not implemented?

Despite major progress over the past decades in the development of law and policy to address the protection needs of refugee women and girls, research highlights that in reality, little has changed. (UNHCR 2011) To understand why existing solutions so often fail, we need to explore how problems and needs are defined and by whom, who shapes the allocation of resources and the implementation of programs. We need to address the question, “why is there so little political will to address the issue?” We need to examine the rationalist view of how the policy and laws which address the needs of refugee women and girls are developed. This involves **assumptions** by policy makers about the nature of the problem and “**expert**” opinion about the solutions. We need to challenge the political and ideological influences which are the major barriers to an effective response to refugee women and girls. Some of the major barriers to the implementation of policy are discussed below.

Discourse used to discuss refugee women and girls

A major barrier is the discourse used to discuss refugee women and girls, which is usually embedded in the cultural, religious and ideological framework of patriarchal societies, both in the country of origin and receiving countries. These often view women as either passive victims, beneficiaries not contributors. Women and girls are designated as either ‘damsels in distress’, or mothers/child bearing machines. They are seen as unable to take control of their own lives and dependent on and subservient to men. This can result in paternalistic programs to protect the good women. Some programs and aid workers punish “bad” women, single mothers, women who flee abusive relationships, shame raped women, and judge women who use survival sex as immoral prostitutes. This reflects both the political and ideological positions of much policy and law and has an extremely detrimental impact on the protection of women and girls.

Politics of refugee service provision

The politics of refugee service provision is often crude and raw. Refugees are minorities wherever they go. They flee from their own countries and are seldom welcomed for the long term in countries of asylum. Countries respond differently to asylum claims, but they are often selective and sometimes punitive. Law and policy is either interpreted to suit the politics of the country of asylum or ignored. Sometimes this is deliberate, at other times because the country cannot respond to the needs of its own population, never mind an influx of refugees. Major obstacles to the provision of an adequate response to women and girls include lack of individual asylum processing, documentation and registration.

Cultural aspects

It is very important to address the cultural aspects of this dilemma. We have to acknowledge that this does exist, and did exist in countries of origin. But culture is a fluid concept and changes over time. It is not set in concrete. Prolonged refugee experience creates a layer of ‘refugee culture’ which overlays original culture, often reinforcing old practice which was/is changing in the country of origin. This is often a defense mechanism against the loss of power and place. We must acknowledge the fact that the people are appointed as community leaders in refugee situations are not always the ones who would have led the community in the past, and may lack the appropriate skills to navigate the context of displacement. Some actions of people who take gatekeeper roles, reversion to old power bases, and the withholding of information impacts disproportionately on women

and girls (Pittaway, 2009). Humanitarian aid workers sometimes unwittingly play into this dynamic by giving power to “community leaders” without due diligence, or any evaluation of the impact of this on the communities, in particular on women and girls. There is the difficult truth that human rights are not a cultural option. There is no easy answer. This is a complex problem which requires political will, acknowledgement and action from all major stakeholders and complex solutions.

Intersectionality

The impacts of minority status and of vulnerabilities are best understood as intersectional. ‘Intersectionality’ is a theory that suggests and seeks to examine how various socially and culturally constructed categories, such as gender, race, class, disability, and other identity labels interact on multiple and often simultaneous levels and contribute to systematic social inequality. Intersectionality holds that the classical conceptualizations of oppression within society, such as racism, sexism, and religion-based bigotry, do not act independently of one another. Instead, these forms of oppression interrelate, creating a system of oppression that reflects the “intersection” of multiple forms of discrimination. Each type of discrimination compounds the effects of other discriminations suffered by women and girls (Collins, 2013; Bartolomei, Pittaway and Pittaway 2003; Pittaway & Bartolomei, 2001).

For example, without registration, women cannot access ID cards and, by extension, food, shelter, health and education. Poor quality and overcrowded shelter leads to health problems and family violence. Lack of access to income and self-sustainable activities forces many women to engage in survival sex to feed themselves and their families. Without adequate health care, women cannot work. Inadequate reproductive health services lead to complications with pregnancies and deaths of mothers and children. Without education, children stay at home and risk exploitation as child labourers or can be forced into child prostitution or early marriage. Lack of adequate sanitary materials force girls to miss schooling and women cannot seek work or attend meetings when menstruating. Lack of access to legal remedies leaves refugees vulnerable to perpetrators who act with impunity (UNHCR, 2011). Each protection problem increases the vulnerability of refugee women and girls, leaving them open to further abuse. Lack of access to decision making processes, lack of autonomy and self determination, lack of recognition of knowledge and capabilities effectively traps women into minority status.

Questions to be answered in the Global Compact on Refugees and the Program for Action must include:

- How can we change the discourse about refugee women from “minority and vulnerable”, to “equal and capable”?
- How can we effectively and systematically protect refugee women and girls from sexual and gender based violence?
- How can we generate political will to address the needs of refugee women and girls and to unlock the contribution they can make to providing solutions?
- How can we address the vulnerabilities and barriers which prevent the full protection and inclusion of refugee women and girls
- How can we maximize strengths and capacity of refugee women and girls and ensure their self representation and meaningful participation in all discussions and decision making process about themselves, their families and communities, short term and long term solutions at every level from the local to the international?

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