

Immigrant, Refugee and Internally Displaced Women and U.S. Policy

The internationally accepted definition of a refugee, which has been adopted by the United States, does not explicitly recognize gender and age as grounds for refugee protection, making the presentation of claims based on such issues particularly complex and challenging.

—Women's Commission for Refugee Women and Children⁴



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Women and children currently constitute more than 80 percent of the 40 million refugees and internally displaced persons worldwide.¹ The United States assists refugees through overseas assistance (the largest contributor to humanitarian and refugee assistance globally) and U.S. refugee resettlement and asylum.² In 2004, Congress gave the State Department Bureau of Population, Refugees and Migration (PRM) \$800 million for regular and emergency refugee assistance. The majority of these funds support the work of the United Nations High Commissioner for Refugees and nongovernmental relief organizations, while a smaller portion supports internally displaced persons through the U.S. Agency for International Development (USAID).³

While considerable provisions are made by the U.S. for refugee and internally displaced populations, the unique experiences of female refugees, the most vulnerable, is often overlooked or ignored in policy, funding and services. Refugee and internally displaced women living in refugee camps worldwide must provide for their children in an atmosphere in which their security is threatened and the likelihood of sexual violence is heightened, and they are often discriminated against for access to food, shelter, health, education, and training.

Within the U.S., immigration laws of the 1990s significantly undermined asylum opportunities for refugee women and since September 2001, procedures for immigration have become even more stringent.⁵ In 2004, 53,000 refugees were admitted into the U.S. for resettlement, down from previous years when over 100,000 refugees were admitted annually. Recent refugees in the U.S. come from countries in conflict such as Sudan, Burma, Afghanistan, Columbia and Haiti.⁶

Definitions Under U.S. & International Law

Refugee: Person outside his/her own country with a well-founded fear of persecution in that country based on race, religion, nationality, membership in a particular social group, or political opinion, and who is entitled to protection and assistance from the states into which s/he moves and from the United Nations.

Internally Displaced Person (IDP): Person displaced within his/her own country due to armed conflict or other situations of violence, human rights violations and/or natural or human-made disasters. It is the responsibility of the IDP's home government to provide for his/her protection, and while international law often protects IDPs, no international law or UN agency is required to ensure their welfare.

1. Women's Commission for Refugee Women and Children, <http://womenscommission.org>.

2. Refugee Council USA. "U.S. Policy on International Refugee Protection and Assistance," available from <http://www.refugees.org/data/advocate/pdf/rcusa.refugee.policy.background.pdf>.

3. U.S. Committee for Refugees and Immigrants, <http://www.refugees.org/advocate.aspx>.

4. Women's Commission for Refugee Women and Children, "Beyond Resettlement—Prospects for Health and Hope for the Forgotten Majority," *Statement*, 25 September 2003.

5. Women's Environment & Development Organization. *Beijing Betrayed: Women Worldwide Report that Governments Have Failed to Turn the Platform into Action*, March 2005.

6. Refugee Council USA. "Fewer Refugees Being Rescued," 21 March 2005. Efforts are pending in the U.S. Congress that would provide specific protection for refugee women and children.

U.S. Foreign Policy: Affecting the Lives of Refugee and Internally Displaced Women Worldwide

Women and children are most vulnerable to the consequences of displacement such as gender-based violence including rape, unwanted pregnancies, unsafe delivery and HIV/AIDS. Twenty-five percent of women of reproductive age in the refugee population are pregnant at any given time. Fifteen percent of them will suffer from unforeseen complications of pregnancy and childbirth.

—Women's Commission for Refugee Women and Children⁷

The Global Gag Rule

In 2001, President Bush reinstated the Mexico City Policy, also known as the Global Gag Rule, an executive order first signed in 1984 by President Reagan and later rescinded in 1993 by President Clinton. The gag rule denies foreign organizations receiving U.S. family planning assistance the right to use their own non-U.S. funds to counsel women on or refer them for abortions, or lobby for the legalization of abortion in their country. This policy contradicts the U.S. principles of democracy and free speech and endangers the lives of women by withholding funding, technical assistance and U.S. donated contraceptives (including condoms) from organizations that refuse to comply with these restrictions. The global gag rule undermines critical health programs for refugee women and by restricting their access to family planning, leads to the increased need for abortion and increases the spread of sexually transmitted diseases and HIV/AIDS.⁸

U.S. Funding for HIV/AIDS

To date, President Bush's funding requests for his HIV/AIDS initiative have represented an \$800 million shortfall in his pledge to fund the program at \$15 billion over five years. The President's FY05 budget request also cuts contributions to the Global Fund to Fight AIDS, Tuberculosis and Malaria by 64 percent.⁹

Clinics providing integrated reproductive health services must either comply with the global gag rule, meaning they are unable to talk about or refer for abortion and are thus providing incomplete information to women, or they must forgo U.S. funding. Forgoing U.S. funding often results in limited ability to provide family planning services, including condom distribution essential to HIV/AIDS prevention.

Abstinence-based only HIV/AIDS prevention programs promoted by the Bush Administration fail to consider a variety of factors in refugee and internally displaced women's lives. Such factors include the possibility of coerced sex, partner infidelity, rape, exchanging sex for resources, and the refusal of her partner to wear a condom. Abstinence-based only initiatives do not protect women and girls from contracting HIV/AIDS.¹⁰

7. Women's Commission for Refugee Women and Children, "Beyond Resettlement—Prospects for Health and Hope for the Forgotten Majority," *Statement*, 25 September 2003.

8. Women's Environment & Development Organization. *Beijing Betrayed: Women Worldwide Report that Governments Have Failed to Turn the Platform into Action*, March 2005.

9. "Global Women's Issues Scorecard on the Bush Administration," April 2004; available from <http://www.WglobalScorecard.org>.

10. Reproductive Health Response in Conflict Consortium, "Sexually Transmitted Infections, Including HIV/AIDS: Global Statistics," available from http://www.rhrc.org/rhr_basics/sti.

U.S. Domestic Policy: Barriers and Legislation Affecting Refugee and Immigrant Women

Women and children account for approximately two-thirds of immigrants living within the United States. Violence against women, particularly domestic violence, has specific and disproportionate effects on immigrant women. Immigrant women experience higher levels of violence than U.S. citizens mainly because of the unique obstacles they face:

- Immigrant women may not be able to leave an abusive relationship because of immigration laws, language barriers, social isolation, and a lack of financial resources.
- Abusive partners will often use a woman's immigration status as a way to control her; this is compounded by the fact that many abusers and victims believe that the protections and penalties of the U.S. legal system do not apply to them.
- Those women who do leave abusive relationships all too often cannot find access to bilingual shelters, interpreters in the court system or even financial assistance.¹¹

U.S. Legislation

The Violence Against Women Act (VAWA)¹² allows for immigrant and refugee women who are victims of particular violent crimes—such as domestic violence, sexual assault and trafficking—to obtain the U-Visa, which lets some women obtain lawful permanent residence in the United States. Unfortunately, the provisions under VAWA are only available to women who are married to U.S. citizens or lawful permanent residents.

In a precedent-setting court case in 2003, the U.S. judicial system ruled in favor of immigrant victims of domestic violence remaining within the U.S. Laura Luis Hernandez, a Mexican citizen married to a U.S. citizen, fled her abusive husband in Mexico but still feared for her safety after coming to the U.S. The continued spousal abuse experienced by Hernandez in the U.S. qualified as “extreme cruelty” under VAWA and allowed her to avoid deportation and to stay in this country. VAWA provides important protection for immigrant women in abusive marriages who wish to stay in the U.S.¹³

Employment Discrimination

Some American employment agencies that recruit farm workers (usually from Mexico) to come to the U.S. bring women in under different visas to their male counterparts. The visas given to women offer fewer benefits and significantly lower wages than visas offered to men. Almost all of the women recruited by these agencies are slotted into the lower-wage job category, despite the fact that they are qualified for the preferable jobs filled by men.¹⁴

11. Family Violence Prevention Fund. “The Facts on Immigrant Women and Domestic Violence,” *Fact Sheet*, 2004.

12. VAWA 2000 (Public Law Number 106-386).

13. Legal Momentum, http://www.legalmomentum.org/news/ib/03_dec/immivictims.shtml.

14. Legal Momentum, http://www.legalmomentum.org/news/ib/03_sept/farmworkers.shtml.

Resources

Organizations

Family Violence Prevention Fund www.endabuse.org

InterAction www.interaction.org

Legal Momentum www.legalmomentum.org

Refugee Council USA www.refugeecouncilusa.org

Refugee Women's Network www.riwn.org

Refugees International www.refugeesinternational.org

U.S. Committee for Refugees and Immigrants www.refugees.org

Women's Commission for Refugee Women & Children www.womenscommission.org

Women's Environment & Development Organization (WEDO) www.wedo.org

Publications

Beijing Betrayed: Women Worldwide Report that Governments Have Failed to Turn the Platform into Action, Women's Environment & Development Organization (WEDO): March 2005.

Forced Migration Review, Issue no. 9 on Gender and Forced Migration and Issue no. 19 on Reproductive Health. Refugee Studies Centre; University of Oxford: 2002; available from <http://www.fmreview.org>.

Gender and Humanitarian Resource Kit, IASC Sub-Working Group on Mainstreaming a Gender Perspective into Humanitarian Responses in Emergencies, n.d.; available from <http://www.reliefweb.int/library/GHARKit/>.

Refugees and AIDS—What Should the International Community Do? UNHCR: n.d.; available from <http://www.womenscommission.org/pdf/hiv02.pdf>.

"Refugees and Internally Displaced Persons," *Inclusive Security, Sustainable Peace: A Toolkit for Advocacy and Action*, Women Waging Peace and International Action: November 2004; available from <http://www.womenwagingpeace.net/toolkit.asp>.



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