

**Navigating the threat of Gender-based Violence: Theorising vulnerabilities among Rohingya  
refugee women in India**

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**Abstract**

This paper examines the vulnerabilities of Rohingya refugee women to sexual and gender-based violence (SGBV) within the socio-political context of India, with a specific focus on urban settlements such as those in Delhi. Drawing on empirical data, it explores how systemic barriers, informal legal frameworks, and gender-insensitive policies exacerbate their susceptibility to violence. Despite efforts by the UNHCR and its implementing partners, challenges such as insufficient resources, policies like the Citizenship Amendment Act (CAA), and limited legal protections have been hindering the effective safeguarding of refugee women. The study employs a qualitative methodology, using interviews and participant observations to examine the gendered vulnerabilities faced by Rohingya women in refugee settlements. It highlights the intersectional nature of these vulnerabilities, shaped by factors such as statelessness, poverty, ethnicity, and gender. The study further critiques the ad hoc nature of India's refugee protection mechanisms and the lack of formal accreditation for international refugee organisations. Key findings highlight the gender-blind nature of protection services and the compounded challenges women face due to structural and institutional barriers, particularly in urban settlements like Delhi. By presenting first-hand accounts of Rohingya women and service providers, the paper identifies gaps in the protection framework and offers policy recommendations to foster gender-sensitive interventions and durable solutions.

**Keywords:** *refugee, gender-based violence, Rohingya, India, social protection, UNHCR*

## **Navigating the threat of Gender-based Violence: Theorising vulnerabilities among Rohingya refugee women in India**

### **Introduction: Ubiquitous Gender-based Violence<sup>1</sup>**

Political conflicts have been long-standing breeding grounds for sexual and gender-based violence (SGBV) against women. Sexual violence has been used with deliberate malice as a war weapon in various conflicts (armed or non-armed), including in Korea in World War II, in Bangladesh during the independence war and in strife in Algeria, Kashmir (India), Liberia, Uganda, Indonesia, Rwanda and the former Yugoslavia (World Health Organization, 2002). The situation is often exacerbated by the accepted social norms of patriarchy and their lowly position in the gender hierarchy of society. Domestic violence and female genital mutilation are extremely rampant yet hushed affairs in several societies. It can be closely associated with under-development, lack of law and order and the deprivation of basic human rights (Castles, Loughna, & Crawley, 2003). Women, therefore, become dangerously susceptible to trafficking, sexual, physical and economic violence and severe psychosocial trauma at all times, i.e., pre-transit, during transit and post-transit. Furthermore, post-transit, in a host country, the camp is supposed to be a secure environment for particularly women and young girls.

Numerous reports from refugee camps in Sudan, Syria, Lebanon, Iraq and Jordan allude to tales of daily suffering and constant fear of exploitation. Women in camps in Libya and Morocco have reported sexual harassment by detention guards and security staff (Wintour, 2019) (Freedman & Jamal, 2008). In Serbia and Slovenia, women refused food and water to avoid using toilets as they perceived it as unsafe or inappropriate (Amnesty International, 2016). Until the last decade, women were only considered part of families and not individuals who needed equal support as single men. Asylum-seeking women worldwide are rendered almost invisible by such systemic flaws in the UN Refugee apparatuses and regional Refugee Status Determination processes. In addition, the

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<sup>1</sup> Gender-based violence (GBV) refers to violence directed against a person on the basis of their gender, encompassing physical, mental, and sexual harm or suffering

displacement of women outside their homes and countries deranges the most basic needs of women and their ability to carry out their prescribed responsibilities towards their families. The demoniac breaking apart of social orders and institutional safeguards of the society exposes women to the most barbaric forms of unrestrained male behaviour (Beyani, 1995).

### **Rohingya Refugees: The World's Most Persecuted**

Rohingyas are a religious, ethnic, cultural and linguistic minority group concentrated in the north-western state of Arakan (later renamed as Rakhine in 1989) in Myanmar and are followers of Islam falling under the Sunni sect. They form a minority in the Buddhist majority population of Myanmar who are of East Asian heritage. This stark ethnic differentiation has been principal to the conflict and the repeated waves of persecution and mass exodus. In 1982, Myanmar amended its Citizenship Law, which excluded Rohingyas from the list of nationally recognised ethnic groups of the country. The discrimination on the basis of race became systematic and gave rise to armed conflict when the government titled them "illegal Bengali migrants" (Cheung, 2012). The arbitrary revocation of their citizenship resulted in their current state of statelessness.

Myanmar's military-led mass atrocities peaked during its peak campaign of ethnic cleansing in 2017, wherein 7,40,000 Rohingyas were forced to flee the country. The UN-backed International Fact-Finding Mission to Myanmar (IIFMM, 2019) brought forth a serious threat to 6,00,000 Rohingyas still stuck in the country of "killings, rapes and gang rapes, torture, forced displacement and other grave rights violations". The report, which included 1,227 interviews of victims as well as witnesses, inferred that the genocidal intent on the part of the State has strengthened and that there continues to lie a grave risk of life as the 'clearance operations' may recur (IIFMM, 2019).

Currently, the *prima facie* basis is used for the recognition of Rohingyas as asylum-seekers in India. In 2019, India was housing around 41,000 refugees and asylum seekers registered with UNHCR. Rohingya and Afghan refugees comprise the largest refugee caseload under UNHCR's mandate in the country, with a smaller number from Middle Eastern and African countries mostly residing in urban and suburban areas (UNHCR, n.d.). The Rohingyas, particularly are concentrated in regions of

Jammu, Delhi and Hyderabad, where UNHCR or its Implementing Partners are involved. Other clusters of Rohingyas are scattered around the country.

For several years now, the Rohingya refugees have remained in a prolonged situation of forced displacement in camps and sub-urban locales in the neighbouring countries of Bangladesh, Thailand, India and Malaysia (owing to the fact that 4 out of every 5 refugees seek asylum in their neighbouring countries<sup>1</sup>). They are doubly vulnerable due to their status as refugees, along with being stateless. In India, their condition is shaped largely by state policies and ad-hoc institutional practices and structures, which oscillate between domestic sentiments towards refugees and the absence of municipal law. The protection for refugees and asylum seekers always tends to remain fluctuant and whimsical to the domestic legal and civil players. In such unsettling times, it is important that a safe haven is created for the particularly vulnerable young girls and women.

### **The daily vulnerabilities of refugee women, and why?**

#### ***Problematic understanding of 'Protection'***

Understanding 'Protection' in isolation from 'Human Rights' creates problematic notions and, consequently, problematic policies. It allows for large-scale detentions, whether in the form of camps or detention centres, deprivation of means of livelihood through the denial of welfare or the right to work, and policies of non-admission. This dehumanisation allows for terms like 'Temporary Protection' to remain in the contemporary debate. However, a big question that emerges from the debate is whether it is even reasonable to talk about 'Temporary Human Rights'. Protection hence becomes an '*Act of Charity*' attached to the times of crisis only, rather than need. The lower standard of rights usually granted to Temporarily protected persons is hence the result (Al-Omari, 1996).

On the most basic level, the forced expulsion of refugees from their homes signifies a lack of protection of human rights. There is a significant theoretical and practical gap reflected in the approach to women's rights in the encompassing discord between refugee rights and human rights (Beyani, 1995). The incompetence of the existing policies and provisions to push for an integrated strategy on refugee women's human rights has exacerbated the cases of gender-based persecution. Also, it has been widely noted that women don't benefit impartially from the guaranteed

protection of the Refugee Convention. The reasons are said to lie in the misinterpretation of the Refugee Convention and the side-lining of women's experiences. For example, overt expression of a political position through traditional ways like involvement in political groups or movements can be considered as a basis for political asylum, but covert and unconventional forms of political protest, such as defiance of discriminatory regimes, are very often misinterpreted as 'personal conduct' (Lewis & Crawley, n.d.).

### ***Pre-existing latent conditions for Gender-based Violence***

According to a report by the World Health Organization titled *World Report on Violence and Health: Summary (2002)*, it was established that in communities with stringent stereotypical gender roles and where the belief in men's sexual entitlements is widely entrenched in the belief system, sexual violence is more likely to occur. Such communities essentially have a higher acceptability for sexual violence and weaker punitive measures against it. Acclimated and extreme poverty are chief contributive factors. Women in such communities are at an alarmingly higher risk of sexual and gender-based violence even without a conflict situation. The situation worsens when the whole social setup is disrupted due to war and displacement and, lately, due to a global pandemic. Hence, in cases of such communities, the risk of gender-based violence is hidden and higher at the same time. Rohingyas are one such group. Somali women in Refugee camps in Kenya assert similar happenings. The women who were divorced before flight (in their home country) admitted that they were seen as faulty, characterless women, and that is why their husbands left them. It leads to generic acceptance of her 'sexual availability' (Beswick, 2001). Later, post-transit, in the host country, such women become doubly oppressed due to the unsaid power hierarchy between service providers/camp supervisors and refugees. Reports have claimed that aid workers in refugee camps have 'used their positions of authority, trust and power' to sexually exploit female residents of the camps (Save the Children-UK, 2002). In cases like these, the perpetrator and the victim both operate within an institutionalised setting that works to the advantage of the perpetrator only and the victim is stranded with little or no chance to seek redressal for her grievance. Sexual slavery and wartime rape are two such representative examples. Evidence from the Rohingya genocide in Myanmar depicts similar conditions as the Fact-Finding Mission determined that the normalisation of the "clearance

operations" was only possible in a period of long-standing tolerance with no fear of punishment. The Mission amassed a vast amount of convincing evidence about incidents of mass gang rapes, rapes, sexually humiliating acts, sexual slavery and sexual mutilations from the very beginning (IIFMM, 2019).

### *Vulnerability due to Structural barriers*

Refugees Rights in India have been uncertain with an absence of formal, persistent policies which remain undifferentiated even among the wider populations of irregular migrants. Consequently, they have reportedly been subjected to arbitrary arrests and detention, prohibited access to labour markets and limited recipients of state services like health and education programmes, due to documentation like Aadhaar cards.

At times of conflict, when there is a grave risk of harassment, unsanitary conditions and epidemics, *inter alia*, women are often forced to make do in sub-optimal environments. Often, women, as they escape from armed conflicts, end up in a new state with higher risk and exposure to sexual and gender-based violence. In addition to the deprivation of social services, rape is also a contributor to high female mortality in camps (Akhter & Kusakabe, 2014). This is largely attributed to the preconceived notion that women are not as mobile, independent or well-resourced as male refugees and will not be able to contribute to 'productive activities' (Valji, 2003). In addition, decision-makers tend to overlook the cultural and social forbiddance of women working, travelling or living alone, especially in societies where women's rights to work and participation in public spheres are curtailed. Women's access to the asylum process is also deterred by procedural and evidential barriers (Lewis & Crawley, n.d.). With reference to the historic Gomez Vs Immigration and Naturalization Services (USA, 1991), we can see that while the US INS rejected Gomez's plea for political asylum, the court also did not accept the systematic guerrilla violence and sexual violence inflicted on her and other Salvadorian women as a well-founded fear of persecution. Such cases illustrate that particular acts and forms of violence which subordinate women to both men and the legal system do not let them get the best possible safeguards.

Also, the administration of refugee camps is heavily dominated by male employees, which methodically excludes women from participating in controlling matters that affect them, such as systems of physical security, logistics of food distribution or even other material requirements. A small group of senior male community or tribal elders usually dominate leadership in camps (Women's Commission for Refugee Women and Children, 2002). In some trends, refugee women have had to cave to extortion by relief workers in order to obtain food supplies (Beyani, 1995). Similar claims have also been made in a study done by UNHCR and Save The Children - UK in the refugee camps in West Africa. Morand, Mahoney, Bellour, & Rabkin's (2012) study for UNHCR with respect to protection barriers among refugees yielded that the challenges of travel distance and cost of services are way above what they earn, making for a substantial concern, followed by its accessibility.

### ***Vulnerability in Refugee Camps/Settlements***

The UNHCR released guidelines for the protection of women and children against sexual and gender-based violence in 1991. But most camps till today still run in negligence of the prescribed guidelines. Living unsteady, uncertain lives with negligible social protection, women tend to be more threatened in camps than settlements or scattered afar from the community. Research has indicated that despite all this, only a small percentage of violence reports ever reach the authorities (Scharffscher & Olsen, 2004).

It is important to note that Rohingyas, prior to fleeing from their country, were involved in farming, poultry, etc., but after coming to Delhi, they had no land or livestock. So, the men's tasks disappeared, but the women's tasks continued and even doubled. Similar was the case of Sudanese women refugees in Uganda's Achol-pii settlement in 2000. In both cases, this led to an increase in domestic violence cases, possibly as one of the detrimental results of compelled idleness and subsequential frustration (Ondeko&Purdin,2004).

During menstruation, Sudanese refugee women in Kenya did not have undergarments or water, so they had to stay shut in their tents until it got over (Beswick, 2001). Moreover, the women also reported that despite being shifted to another facility with slightly better resources, the rapes continued. With particularly poorer access to any medical care, hushed issues like rape never come

to the forefront. The refugee women in Kenya also reported that whenever they got raped, they only received medical help for the beating and physical injuries, not the sexual injuries (Beswick, 2001). The victims of such sexual exploitation are typically ones surviving in poverty, with limited access to food and other necessities, no education and disintegrated familial and social networks from the conflict. (Scharffscher & Olsen, 2004). Domestic violence is so common in such settings that it almost becomes a norm. Women not only submit to it but also rationalise it by citing it as the violence their men themselves experienced during the conflict and their frustration of living like refugees (Akhter & Kusakabe, 2014). Marital rape, as per the practices of Rohingyas, is not even Rape. Similarly, Somalis, Sudanese, and Afghans also believe *'There is nothing forced in a marriage. Everything is an agreement between man and his wife'* (Hough, 2013). There is poor participation of refugee women in decision-making in a camp/settlement setting. The officials agreed that consultations with both men and women were essential to effective camp governance and stated they saw positive results from involving women in administrative processes (Women's Commission for Refugee Women and Children, 2002). In another dilemma, the women who did reach the managerial table of the camp overwhelmingly represented the comparatively better-off members of the population rather than the overall population. Hence, the matter of contention at hand remains to bring forth the representation of those who get left out of the planning of programs (Women's Commission for Refugee Women and Children, 2002).

### **Refugees in the Indian Landscape: The Rohingyas and the Citizenship Question**

Contestations on the term 'Protection' have been going on for several years now. With newer debates and interdisciplinary understanding, the definition becomes more expansive. Refugee Protection in India lacks an institutionalised legal setting to regulate the large plethora of asylum seekers and refugees. The GoI supports the partition refugees, Tibetan refugees and the Sri Lankan refugees only. The rest of the groups fall under the responsibility of the UNHCR. As a result, the refugees experience differential treatment. The difference between the treatment meted out to these groups may be argued by Nasreen Chowdhory (2019) in her paper, *The Idea of Protection: A Regional Understanding?* She speculates that the idea of Refugee protection in the country can have passive and/or active qualities,



i.e., actively protecting from harm or avoiding an action that leads to harm. The South Asian countries have passively been protecting refugees through case laws, non-refoulement and by setting up camps. She points out that when the term 'protection' is used, it overruns into the ideas of asylum as well, ensuring some rights or security to the population (Chowdhory, 2019). An individual can only claim rights through the State. The notion of inalienable rights that any individual possesses by virtue of being a human being renders itself archaic in the absence of a 'nation' for the individual. It is at this juncture that Hannah Arendt's differentiation between the right to human rights and the right to have rights gains significance (Chowdhory, 2019). Hannah Arendt who herself was a stateless refugee, in her book (1951) 'The Origins of Totalitarianism' explains that "Human rights, inalienable and independent de jure, are de facto dependent on external, contingent guarantor powers and are exposed to their arbitrariness: an arbitrariness that in principle can work toward suspending any of these rights." (Hamacher & Jesús, 2014)

Applying the same in the context of Myanmar and its state-sanctioned discriminatory practices against the Rohingya through its 1982 Citizenship Law deprives them of a legal nationality and has created rootlessness of an unprecedented scale. The law designated three categories of citizenship – full citizens, associate citizens and naturalised citizens – and issued colour-coded identification cards accordingly (IIFM, 2019). Usually, the Rohingya hold white 'temporary registration' cards. These cards simply led to the initiation of mass discrimination. Decades of protracted armed conflict, resulting in prolonged and repeated displacement and gradually restricted humanitarian access to international organisations, have heightened marginalisation and vulnerabilities for women and girls irrespective of age, marital status or even pregnancy. As Rohingyas became stateless and lost citizenship rights, they eventually also lost the human rights embedded in them. Thus, we see that the basic 'Human rights' are paradoxical figures. On one hand, while they suggest internal consistency, on the other hand, they are rights-against-rights entrenched in the battle of social institutions against social integration. As the state is a static and non-permissive institution based on national and territorial sovereignty, there is a need to uphold the 'right to have rights' as a prerequisite for the protection of human rights.

As the Refugees reach India and other asylum countries, the violations of their rights or of their bodies continue. The women and girls face discrimination and violence at an intersection with factors such as gender, ethnicity, religion, displacement and poverty. These factors disproportionately worsen their susceptibility (2019). As numerous studies confirm that rather than being a 'safe haven', the refugee camps/settlements are further sites of the perpetuation of the rapes, beatings, and harassment they were escaping from in the first place. Only this time, it is not the members of the state or the army, but their own men (of the house and community) or the 'trustworthy' humanitarian workers. Thus, comically, when female refugees flee from wars in their home countries across borders into neighbouring grounds, they often land in places either more unsafe and perilous climates or an equally hazardous setup altogether (Beswick, 2001).

Despite attempts from the UNHCR and its Implementing Partners, there is an absolute lack of a holistic fostering of safety nets for victims. The Rohingyas are caught in a stalemate situation between migration control policies and faint hopes for durable answers (Cheung, 2012). Their access to education, health or other basic facilities, which are promised to human beings irrespective of any factors, are hampered due to the domestic structures' negligence, unawareness and even Islamophobia. The post-conflict resilience and the will to re-create a more dignified life is the essence to rebuilding. The UN Secretary-General, Kofi Annan, once said, "Women are the most significant members of post-conflict reconstruction". It is women, at the utmost peripheries of the process building the family and community life back up from scratch. But the access, mobility and freedom of these women is firmly held by the powerful patriarchal framework with both the Islamic and the refugee community, which is also antagonistic to women's rights at the same time. Even in post-conflict setups, all the factors that would have empowered women are, on the contrary, working against them— independently earned bread, a women's livelihood centre or a community structure with women's support. Women have livelihood training but cannot go out to work, if they take up the role of breadwinner and decision-maker of the house, they are physically and verbally abused; if they work hard till late, they are characterised as being 'loose character women'.

Without any legal domestic rights and authorisation to work, women cannot access education beyond the secondary level and will not be able to join a formal, more-regulated workforce. Without an Adhaar card in India, they cannot access pre-natal and neo-natal services in hospitals, which is available in government hospitals. The women's need for medical care or sexual and reproductive health services is not significant in the household and largely remains ignored. Systemic barriers of discrimination, as affirmed by literature globally, was true in India as well. The settlements are unregulated spaces. While there is a stronghold of the community leader on decisions concerning people of the area, he (almost always an elderly male) also governs the conduct, morals and the ways of life of the women. The studied settlement was grossly inadequate and threatening to women due to unhygienic as well as violent surroundings, the sheer absence of any infrastructural shred and a sanctioned invisibilised way of life.

The Refugee Status Determination process, while favouring single-women, also disadvantaged associated or married women. The single women eventually develop a social network with other members of the community out of empathy and a nominal help from the UNHCR but married women are at the mercy of their husbands. They are burdened with upholding the domestic values as well as added domestic chores. All these put together, create a very unsafe and uncertain environment for women which eventually leads to their subjugation, vulnerability and dependability on men. Their participation in the community decisions and governance is markedly low. But as the Implementing partner's officials say, "it is still better than what it was initially. we hardly saw women in meetings". But despite regular efforts, sensitisation is a very slow process. The rates of violence have reportedly come down as the women learnt how to access local police stations or even the IP's offices in times of need.

### **To Help or not to Help?**

Whilst there is an undeniable trivialisation and alienation of refugee rights, the article aims to also presents the side of the service providers in India which in most scholarship is either inimical or absent. The problems of lying, running away, limited powers in terms of area and victim-blaming still

prevents the service provider or the victim to get her rights. The community mobilisers for Rohingyas have claimed the issue of lying a problem, leading them to be extra careful. The better-off families lie about their short-comings to avail more monetary or material relief from the UNHCR. In the process, the ones in actual, dire need of it get pushed backwards. Human rights abuses such as sexual and physical violence of young girls which is almost a norm are difficult to stop when the victims either don't acknowledge it or lie about it. As UNHCR follows different guidelines for different groups such as minors, single women or elderly, the best possible services do not reach these women. The absolute internalisation and normalisation of violence is the biggest barrier to accessing remedial services. The whole scenario indicates a need for more gender-centric integration policies. The lack of a protection-based policy framework on statelessness leaves refugees at the discretion of the Indian state, without any safeguards against arbitrary detentions, deportations or disenfranchisement. In recent years, concerns about national security and the rise of anti-migrant and anti-Muslim rhetoric in broader political discourse have had a negative impact on attitudes towards asylum in the country (Field & Burra, 2020). The Rohingyas are being scapegoated as a result of the growing intolerance towards refugees as well as Muslims together. In October 2018 and January 2019, for instance, the Indian government forcibly deported about a dozen Rohingya refugees back to Myanmar. Later in the year, the Citizenship Amendment Act (CAA) was passed in the country depriving Muslims of naturalising as citizens of the country. The policy is especially crucial for the refugee and asylum-seeking population in the country as this will define important terms like an alien, citizen and a refugee. Consequently, will decide the future of all refugees in India with a potential to affect thousands of lives.

In the current context, however, the situation gets exacerbated tremendously with increasing risk of contracting and spreading the novel corona virus. Additionally, the added pressure on the governmental and non-governmental organisations' (NGO) will probably further stretch the humanitarian setup, invisibilising women's needs again. While the whole world has come to a pause due to the novel virus, the lives of refugee women have become doubly strained with their traditional roles of caregivers and their seasoned role as a breadwinner due to the conflict. This in turn has

exposed them to hazardous risks of almost the whole spectrum of violence ranging from physical, mental to psychological and emotional as well. While there are several romanticised accounts of 'bravery' displayed by women during these unprecedented times, these are merely overlooked accounts of the failure of the system to show kindness and provide essential services. The evident lack of faith and threading uncertainty has forced women to retrace their steps from public spaces. While this essay theorised at the 'Why' of the gendered acculturation difficulties in the host country and India, it ends on a hope of further rigorous examination of the everyday stress caused particularly to women.

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