

Gender-Based Violence against Women: Both Cause for Migration and Risk along the Journey

SEPTEMBER 7, 2017 FEATURE | By Anja Parish

Each year, countless women and children flee violence at home and take an uncertain journey in the hope of finding safety in a new country. While many escape conflict zones or generalized human-rights abuses, some also run from more intimate forms of violence—namely, sexual and domestic violence perpetrated by men. Setting off on the journey is no guarantee of safety; many are vulnerable to gender-based abuse in transit and even at destination. Along some migrant routes, half or more of women surveyed reported experiencing sexual assault during the journey, and many take birth control to avoid becoming pregnant from rape.

Gender-based violence is defined as “violence that is directed against a person on the basis of gender or sex,” according to the UN High Commissioner for Refugees (UNHCR). Though men and boys can also suffer from sexual assault, the majority of victims are women and girls, who tend to be the most vulnerable. Unequal power relations create the conditions for gender-based violence to occur, and it can be perpetrated or condoned by relatives, community members, or government actors. Such abuse inflicts sexual, physical, or mental harm, and can take the form of threats, coercion, sexual assault, intimate partner violence, or honor killings. Survivors experience a range of physical and psychosocial effects, including injury, sexually transmitted diseases, depression, post-traumatic stress disorder, social stigma, rejection, and isolation.

While gender violence is not uncommon among female migrants, individual cases of trauma and experiences accessing support vary considerably. This article explores the rates of gender violence

among refugee, asylee, and migrant women; avenues of immigration available to survivors in the United States; and supports offered once women are lawfully admitted.

A Treacherous Journey

The rise of gender-based violence stemming from conflict is correlated with the changing nature of conflict itself. In the past, wars pitted countries against one another and had distinct battlegrounds; today, conflicts are largely contained within a country's borders and are increasingly waged against unarmed civilians. Rape is used as a deliberate military strategy to disrupt communities and instill fear, and in ethnic conflicts as a tool for both "cleansing" and social control. Modern conflicts disrupt traditional social structures, leading to an increased risk of gender violence. Ethnic differences, socioeconomic discrimination, and group rivalries can exacerbate these risks. Lack of economic opportunity in societies where males are traditionally the providers can also lead to increased violence at home.

Instances of rape are particularly common in conflict zones. More than 20,000 Muslim women were raped during the Bosnian War in the early 1990s, while an estimated 250,000 to 500,000 women were raped during the 1994 Rwandan genocide, according to UNHCR. Further, 94 percent of households displaced during the decade-long Sierra Leone civil war reported at least one member experienced sexual assault. Ongoing armed conflicts reflect similar patterns: Upon their arrival in Tanzania, 23 percent of female Burundian refugees reported they had experienced gender-based violence, and mass rapes of relatives of government opponents or refugees are an element of the conflict in Burundi, according to the Women's Refugee Commission. These figures are likely to be underreported, due to the stigma often assigned to survivors.

Even as they flee conflict zones, women and children remain at risk. Smugglers often target women and girls traveling alone by attempting to coerce those with limited financial resources into exchanging sex for a place on a boat. Nearly half of the migrant women and children surveyed in Libya for a 2017 UNICEF study reported sexual violence and abuse on their journey, often at multiple times or locations. The snapshot survey also found a growing number of female refugees take birth-control shots to prevent pregnancy due to rape, and one-third of respondents reported their abuser wore a uniform. Women and children who enter into "pay-as-you-go" schemes with smugglers are often left in debt, and as such are more vulnerable to abuse and trafficking.

Once in countries of first asylum, women and children can experience a lack of protection and security due to the social structure of predominantly male-led camps. Female refugees may be forced to sleep alongside male refugees, even if they are traveling alone, and camps often lack single-sex, well-lit toilet facilities. Burundian refugee camps in Tanzania have a high rate of sexual offenses, with up to 14 percent of children reporting assault, according to the Women's Refugee Commission. In Greece, researchers from the Refugee Rights Data Project spoke to more than 300 refugees and aid workers in nine different camps and found instances of rape, forced prostitution, and forced

marriage. Of the female refugees surveyed, 46 percent reported they did not feel safe in the camp, and 69 percent resided in dwellings without a secure lock.

Refugee girls face the additional risk of early and forced marriage, often because their families cannot support them. In 2013, 25 percent of Syrian refugee children in Jordan reported being forced into marriage, and 48 percent of these marriages involved a spouse ten or more years older. Female refugees who face gender-based violence and lack effective protection normally provided by male relatives comprise one of UNHCR's refugee resettlement categories, however this does not necessarily place them at the front of the line for resettlement.

Fleeing Violence in Central America

The rising numbers of Central American women and girls making the journey to the United States in recent years, driven largely by violence and poverty in El Salvador, Guatemala, and Honduras, face many of the same risks as asylum seekers in other parts of the world. A significant share experience sexual or physical abuse by smugglers, migrants, or even government officials: Between 60 percent and 80 percent of female migrants traveling through Mexico are raped along the way, according to estimates from a study by Amnesty International and reporting by Fusion. Women migrating from Central America to the United States also take contraception to prevent pregnancy in the event of rape, indicating they are fully aware of the risk of assault—yet still choose to undertake the journey.

Many women and children make the trek northward to escape the violence they experienced in their home country, whether by family members or organized criminal groups, including gangs. In 2013, El Salvador had the highest rate of gender-motivated killing of women in the world, with Guatemala coming in third and Honduras seventh. Fewer than 3 percent of these murders are resolved by the courts. Children are also vulnerable to abuse: Out of 96 Central American migrant children surveyed by Kids in Need of Defense, 30 said they had experienced sexual or gender-based violence in their home country, 21 of whom reported migrating to escape it.

Women often do not report the abuse to police, believing the process to be futile. In a UNHCR survey of women who had demonstrated to U.S. officials a credible fear of being returned to their native country, 40 percent of those who said they experienced sexual assaults, rapes, physical attacks, and threats did not report them to police. (Separately, 10 percent reported the police themselves were the perpetrators.) Owing to the high levels of violence against women in the region, in fiscal year (FY) 2015, 82 percent of women from El Salvador, Honduras, Guatemala, and Mexico screened at the U.S. border had a significant chance of establishing eligibility for asylum, according to UNHCR.

Pathways to Protection in the United States

Although the United States does not include gender in its grounds for asylum, women subjected to gender-based violence may qualify for protections through the asylum program. Generally,

applicants for asylum must show that they have either experienced persecution or have a well-founded fear of persecution due to race, religion, nationality, membership in a specified social group, or political opinion in their country of nationality. UNHCR provided guidance in 2002 stating that, while gender alone is insufficient to qualify for asylum, a “gender-sensitive interpretation” of permitted grounds should be applied. Women and children fleeing gender violence may apply for asylum defensively if they are apprehended and detained near the border, or can apply affirmatively from inside the country within one year of entry.

In 1996, an immigration court issued a landmark decision granting asylum to a woman who fled her country to escape female genital cutting, thereby opening the door to future gender-based asylum claims. However, prior to 2014, U.S. asylum officers and immigration judges provided inconsistent opinions on whether intimate partner violence qualified as a basis for asylum. Court decisions reflected a belief that while gender-based violence could constitute persecution, violence by a partner remained a personal and private issue and was not the responsibility of the state. Many immigration judges perceived female asylum seekers to be seeking special accommodation, as they did not fit within the existing asylum criteria, according to researcher Karen Musalo.

In 2014, the Board of Immigration Appeals determined that a Guatemalan asylum seeker who had been beaten and raped by her husband belonged to the social group, “married women in Guatemala who are unable to leave their relationship,” in which marital status could be considered immutable if the woman was unable to leave due to religious, moral, or legal constraints. In this case, the woman was granted asylum based on her membership in this group. While this ruling was rooted in a broad legal principle for establishing persecution based on membership of a social group, it was also narrow and specific to the facts of the case.

The burden of proof placed on these asylum seekers is relatively high, and many face obstacles to having their claims approved. From 2014 to 2015, the Center for Gender and Refugee Studies tracked 67 cases in which women sought asylum based on intimate partner violence. The study found that some women had difficulty establishing credibility, similar to criminal cases involving rape, and judges did not always take cultural practices and norms into account. Courts were split regarding eligibility for asylum in cases where the woman was not married to the abuser. Women face additional challenges in connecting the dots between the abuse suffered and their gender and social status. Successful asylum applicants must further show that the government in their country of nationality is unable or unwilling to protect them in order to explain why abuse may have gone unreported.

Protections Outside the Asylum System

Survivors of gender violence have avenues beyond the asylum process for immigration relief. Under the Violence Against Women Act, several immigrant and nonimmigrant visa categories are available for victims of partner violence, sexual assault, rape, or human trafficking. Spouses of U.S. citizens or

lawful permanent residents (i.e. green-card holders) may be eligible for permanent residence on the basis of that abuse, allowing victims to obtain lawful status without their abuser being notified and to move toward a life of safety and independence. There is no limit on the number of visas available for the abused spouses of U.S. citizens; the visa is open to all genders, and applicants are not required to show lawful admission.

Further, victims of a number of crimes, including those constituting gender violence, may be eligible for a nonimmigrant U visa in exchange for working with law enforcement or government officials in the investigation or prosecution of that crime. Recipients must show that they suffered “substantial physical or mental abuse” as a result of the crime. However, the program is limited to crimes that either occurred within the United States or violated U.S. laws, and just 10,000 visas are issued per year.

Survivors of human trafficking may also be eligible for a nonimmigrant T visa, created to allow victims to remain in the United States to assist law enforcement or government officials with the investigation or prosecution of human trafficking. Children under age 18 or those experiencing severe trauma may be exempt from cooperating with law enforcement. This program is limited to those who were trafficked into the United States, and just 5,000 visas are issued each year.

Both visa categories generally require an affidavit by law enforcement attesting to the survivor’s cooperation, and they allow survivors to later adjust to lawful permanent resident status. Approval rates for both petitions tend to be high: In FY 2016, U.S. Citizenship and Immigration Services (USCIS) approved 750 applications for T visas and denied 194. Due to the U visa cap, USCIS approved 10,046 applications and denied 1,843, while 86,980 were pending by the end of FY 2016.

Obstacles to Accessing Support

As with applying for asylum, filing for nonimmigrant status as a survivor of a sexual or gender-based crime generally requires the support of law enforcement or government officials. For some, however, fear of deportation can be a deterrent to seeking help, creating a catch-22—particularly in the current stepped-up enforcement environment. Reports suggest the increase in immigration enforcement activities, including arrests outside courthouses, has led to an overall decline in crime reporting among immigrant populations. Abusive spouses may threaten to contact U.S. Immigration and Customs Enforcement (ICE) if the immigrant reports the abuse to police.

In Houston, Hispanics reported 43 percent fewer sexual assaults between January and March 2017, compared to 2016. Los Angeles police have noted similar trends during the same time period, including drops of 25 percent and 10 percent in sexual assault and intimate partner violence reporting, respectively, among the Latino population. In an April 2017 survey of advocates, immigrant organizations, and legal service providers, 78 percent of respondents reported concerns among their clientele about working with police, 75 percent noted concerns about going to court, and

43 percent had clients who eventually dropped their cases due to fear of deportation. Yet without reporting crimes or working with the police to help prosecute perpetrators of sexual or gender-based violence, victims can be cut off from the few avenues available to them for obtaining lawful status.

In addition to the challenges of navigating the immigration system, survivors of gender-based violence also may face stigma within their community due to the assault or their decision to leave an abusive spouse. Lack of lawful status may prevent them from accessing bank accounts previously shared with a partner, as well as limit job prospects. Support services can also be limited due to language barriers, especially if the survivor speaks a less common language. Finally, as with all survivors of gender-based crimes regardless of immigration status, reporting abuse or assault to the police exposes the immigrant to potential retaliation by their abuser.

Obstacles also exist in getting support for victims of gender-based violence who have been granted asylum or resettled as refugees. Despite the fact that both groups tend to experience similar trauma, they are not eligible for similar benefits. Refugees—nearly half of whom are women—receive health screenings before entering the country and after they arrive. They receive aid from the Office of Refugee Resettlement (ORR) and resettlement agencies in the form of cash and medical assistance, and can access programs that provide a case manager and address employability and social integration. To determine whether refugees need mental health support, the Centers for Disease Control established guidelines for screenings, however these are not consistently conducted. A recent study of mental health screenings completed by 112 refugee women found that 23 percent were found to need mental health services. Mental health and trauma-informed services are provided to survivors of torture, but the torture must have occurred “under the color of law,” that is, perpetrated by government or law enforcement officials.

For individuals granted asylum, finding adequate support can be even more challenging. Asylees tend to come to the United States at their own expense and must support themselves throughout asylum proceedings. Unlike refugees, asylees are not assigned a case manager, and must find either a resettlement agency willing to assist them or apply independently in order to receive benefits. Attorneys often lack the time or knowledge to adequately explain to asylees the benefits for which they are eligible, and those granted asylum may remain unaware. As of 2014, just 50 percent of USCIS asylum offices provided an orientation on asylum benefits. Meanwhile, mental health conditions are common among asylum seekers: In a 2017 study by Keller et al., 77 percent of the sample detained asylum seeker population had clinically significant symptoms of anxiety, while 86 percent had symptoms of depression and 50 percent experienced symptoms of post-traumatic stress disorder. Further, severity of the symptoms was correlated with time spent in detention.

Surviving and Thriving?

Trauma among refugees and asylum seekers is undeniable, and the vulnerability of women and unaccompanied girls heightens the risk of further abuse at all stages of the journey. Though the

evidence shows these women are significantly likely to suffer from gender-based violence, support services in the United States do not sufficiently address the health needs of this population. Globally, the situation is also dire: Fewer than 1 percent of all refugees will receive mental health support, and just \$1 of every \$1,000 devoted to humanitarian aid goes to mental health care, according to Reuters.

Even after reaching the United States, inadequate supports may still hinder the recovery of survivors. Current administrative practices, including increased immigration enforcement, exacerbate the fears already present in the unauthorized immigrant community and may discourage women from seeking out support services. These policies may lead to unintended consequences, especially if women remain with an abusive spouse or partner because of a fear of deportation, and may ultimately hamper their ability to not only survive, but thrive.

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