

COMMENT: The Effects of Statelessness on Gender Rights

Melissa George, Webster University – Saint Louis

Abstract

Stateless peoples are marginalized not only by citizenship laws that deny them legal nationality, but also by the international community's inattention to this human rights problem. Limited existing research largely ignores the impacts that statelessness specifically has on women, including the extent to which statelessness creates vulnerabilities for abuse. Rohingya women in Burma (Myanmar) are one case for examining this intersection between statelessness and gender rights; they are subjected to restrictive marriages and family structures, limited freedom of movement, and denied education – all leading to diminished quality of life and human dignity. Experts contend that stateless women are especially affected by marriage and child-rearing restraints, yet further data is needed to support these claims. This comment aims to highlight the research gap connecting statelessness and gender, viewing Rohingya women as a case study for better understanding the challenges that women specifically face when confronting lack of legal nationality.

Statelessness – or lack of legal nationality to any country – is a current human rights problem that affects approximately 12 million people, according to the United Nations High Commissioner for Refugees (UNHCR). It is a global issue that violates one's "right to a nationality," as well as creating obstacles to basic rights such as health care, education, property, and freedom of movement. Stateless people are also vulnerable to government abuse and human trafficking, as well as displacement (United Nations High Commissioner for Refugees, n.d.). Unfortunately data remains limited on statelessness, and the issue itself has been largely ignored by the international human rights regime (Kingston, 2013).

While statelessness presents us with many important research agendas, I contend that it is essential to examine how women particularly bear the consequences of this human rights abuse. With further research, I believe it will become apparent that this hardship is not shared equally between the sexes.

The Rohingya, a stateless ethnic minority living in Arakan state of Burma (Myanmar), provide an important case study to further this research. Rohingya women are targets of discriminatory citizenship and marriage laws, which threatens their basic human rights and security as well as impacts their ability to protect their children. Yet most research on the Rohingya focuses on the work of men; for instance, considerable attention has recently been paid to unmarried stateless men who construct boats out of trash and sail to Thailand or Bangladesh to escape persecution. Rarely have women been mentioned in this coverage, nor have researchers considered the effects of the absence of these young men in their communities. Further research on the intersection of statelessness and gender within Rohingya communities will uncover human rights problems within Burma, as well as provide lessons for alleviating the harms of statelessness around the world. Since statelessness is a global issue, it will require solutions from a range of actors – including state governments and the international community. In order to enact positive change, more data is sorely needed to fully understand the causes and consequences of statelessness, as well as its human rights implications for women.

Discrimination against the Rohingya

Discrimination against the Rohingya and the resulting human rights abuses they face are intimately connected to the denial of citizenship. The Rohingya have lived in the Arakan State for centuries, yet the Burmese government refuses to accept them as a “national race.” The Rohingya are a Muslim minority in a majority Buddhist country. Bias against the Rohingya became officially engrained in law in 1982 with passage of the country’s Citizenship Act. The law essentially left the Rohingya stateless, and represented an important turning point because it transitioned discriminatory attitudes into the

public arena of law. The Act denotes three categories of citizens: Full citizens are issued pink cards, associate-level citizens are issued blue cards, and naturalized citizens receive green cards. The Rohingya, however, are issued special white cards that demonstrate their lack of rights and political membership. The government does allow people to obtain citizenship by providing documents that prove their parents entered and lived in Burma prior to independence in 1948, but most Rohingya do not possess such documents even though they have lived in the country for generations. This lack of status is transferred to children, as well; babies born to non-citizens are not able to obtain citizenship and must continue the cycle of statelessness (Human Rights Watch, 2013a).

Other laws have been passed that violate the fundamental rights of the Rohingya in Burma, including a “two child policy” that targets women’s reproductive freedom. Enacted in 2005, this policy limits Rohingya women so they may only legally have two children. Couples with more than two children must pay fines or face imprisonment, and some have resorted to giving up babies or falsifying records. Advocates of the law contend that such legislation punish the Rohingya community for the consequences of poverty and over-population. The argument goes that women are not able to provide for their large families because they are poor, and as a result their children often suffer from malnutrition, lack of schooling, and inadequate shelter. These advocates argue that the law actually protects the rights of women, and they point to reproductive policies in China and India as examples of success. Kashyap (2013) believes that the government is addressing the situation from the wrong angle. Rather than restrict the rights of women, the state should provide education and contraception. A 2007 Fertility and Reproductive Health Survey completed by the Ministry of Immigration and Population and the United Nations Population Fund found that women with higher education chose to have fewer children, and they also have better access to birth control and health care. Many Rohingya are unable to go to government hospitals to obtain contraception, forcing them to rely on the withdrawal method or

abstinence, and they lack health education that would empower them to make informed family planning decisions (Kashyap, 2013).

Not only does the government openly discriminate against the Rohingya through legislation, but the state also fails to protect them from violence. An example comes from June 2012, when anti-Rohingya sentiment exploded after a Buddhist woman was raped. The Rakhine Nationalities Development Party (RNDP) and the Buddhist *sangha* carried out violent attacks against the Rohingya community, beginning in the early morning and lasting well into the evening. Interviews with survivors showed that Burmese security forces did not protect the Rohingya, as they were obligated to do. Instead, they opened fire on villagers, committed sexual assaults, and arrested hundreds of Rohingya men. In Yan Thei village, women and children were the first to flee the violence and became initial targets of the security forces. Over 115,000 people were displaced due to the violence, and the Burmese government reported 152 killed (Human Rights Watch, 2013a).

Fleeing human rights abuse

As a response to increased violence and human rights abuses, thousands of Rohingya have resorted to creating makeshift boats and attempting to sail to nearby Thailand or Bangladesh. Since 2012, an estimated 13,000 people have attempted the treacherous journey. The majority of these refugees are men and boys, leaving behind women in Burma. Most boats are not prepared with adequate food and water to make it to nearby Thailand, and the threat of starvation is imminent. Rather than offer asylum, the government of Thailand has adopted a “help on” policy; the Thai navy is supposed to intercept small boats and provide them with fuel, water, and other supplies to continue with their voyage to Malaysia or Indonesia. In reality, the boats are often refused and they are not given supplies; they are simply left to drift at sea in violation of international law. Thailand has begun to accept more refugees as a result of increased political pressure since January 2012, but many asylum-

seekers are sent to immigration protection centers (detention centers) and alienated from their families in Burma (Tan, 2013; Human Rights Watch 2013b).

Rohingya women who are able to escape Burma face dangerous situations living in refugee camps in Thailand and Bangladesh, thanks in large part to UN policies that are supposed to promote gender equality. These policies aim to include women in decision-making and participation in camp life and are called “Age, Gender and Diversity Mainstreaming” (AGDM). The fundamental goal of these policies is refugee participation, particularly from women, that will help increase gender equality. For instance, food is distributed to women in order to bestow them with more power within the camp. However, this creates tensions when men are left out of the food distribution process, and women are vulnerable to violence when they must wait alone in long food lines. Another example is the Karen Women’s Organization (KWO), which attempts to educate people about women’s rights and has started programs addressing violence against women in Thai refugee camps. However, organizations like the KWO are criticized for being too political and often results in gender-based discrimination and even violence. Although women’s empowerment is vital, policies and programs should only be enacted when their consequences are understood and security can be assured (Olivius 2013). Several scholars argue that more attention must be focused on how to improve the lives of refugee women, which includes critical analysis of policies with varied success rates. Many women still do not negotiate in peace negotiation processes, for instance, and face considerable risks living in refugee camps and urban refugee settings (Buscher, 2010; Johal, 2007).

Statelessness adds another level of vulnerability to Rohingya women’s already precarious state. Various laws make it difficult for Rohingya women to obtain official marriage licenses, gain legal employment or education, or protect their children from future statelessness. Alice Edwards (2009) connects gender discrimination with statelessness and displacement, arguing that violence and vulnerabilities to human trafficking are increased by lack of legal nationality. These human rights abuses

continue despite adoption of the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), highlighting a research and advocacy gap when it comes to gender rights and statelessness. Women are often left out of the limited research and policy discussions centered on statelessness, and more information is necessary to fully understand the intersection between nationality and gender rights.

Recommended readings

Current literature on the impacts of statelessness on gender rights is sorely lacking, both in general as well as specifically in the case of the Rohingya. However, some scholars and organizations have made preliminary steps toward an expanded discussion of women and lack of legal nationality. The following recommended reading list provides important starting points for scholars hoping to engage in this research agenda.

- Human Rights Watch (2013a) published a report entitled “All You Can Do is Pray” about violent attacks against the Rohingya that occurred in June and October of 2012. Data was obtained through 104 interviews of people who witnessed or were directly affected by violence. Additionally, ten group interviews took place with more than 100 Rohingya, Kaman, and Arakanese people. HRW also visited 20 displacement camps; members of the UN and local non-governmental organizations were later interviewed. The report found that the Burmese government denies fundamental human rights to the Rohingya, and that thousands of stateless people are forced to go without aid because of government interference. HRW found that women often became the focus of violent attacks in 2012, although the report barely mentions the widespread rape of women. The prevalence of rape on women and impacts to the community should be further explored. The report also uses quotes from many young men, but

sadly the perspectives of women survivors are missing. People often experience the same event in different ways, and voices of women should be included and taken seriously.

- Refugees International's (2013) report "Myanmar: Protecting Minority Rights is Non-Negotiable" discusses freedom of movement, access to health care and education, and increasing violence in Burma. Even though women are especially affected by all of these issues, they are not specifically discussed in the report. Lack of health care and freedom of movement are particularly harmful to pregnant women who are unable to access hospitals, for instance, while women are adversely impacted when the cycle of poverty is perpetuated because of unemployment. The report ends by making recommendations to the government and the international community, yet not one of the ten points specifically discuss the plight of stateless women or how to relieve it. However, some recommendations do relate to women in general: The government should not interfere with humanitarian access, action should be taken against groups that do interfere with aid, and the safety of the Rohingya community should be guaranteed. Ultimately, this report demonstrates that women remain on the backburner and that their experiences of discrimination have a low priority for international organizations.
- A report by the Women's Refugee Commission (2013), "Our Motherland, Our Country: Gender Discrimination and Statelessness in the Middle East and North Africa," does not specifically discuss the Rohingya but nevertheless it adds value and knowledge the statelessness discourse. Many of the stigmas and discriminatory attitudes faced by stateless communities in the Middle East and North Africa are similarly applied to Burma's Muslim minority. The report points out that despite differences, the negative effects of statelessness are similar worldwide. In this case, the report looks at how women are affected by statelessness – and specifically at the emotional

toll that women experience. To obtain data, researchers interviewed 152 men, women, and children from Kuwait, Jordan, Morocco, and Egypt. Six focus groups were conducted, and all but one were exclusively female. The goal of the report is to “understand better the link between gender discrimination and statelessness, and the practical consequences of statelessness on the lives of individuals and their families.” Without proper documentation, for instance, the family becomes especially vulnerable to government officials. This report is incredibly useful for better understanding the difficulties that stateless women go through to get married, to start a family, and to get an education.

- Women’s rights researcher Aruna Kashyap (2013) discusses Myanmar’s restrictive two child policy and restrictive marriage laws in a recent article first published in *The Irrawaddy*. The government’s rationale for these laws, as discussed above, is that they aid in the protection and promotion of women’s rights. Kashyap disagrees with this logic, however, and argues that the government is addressing the problem from the wrong angle. This article is useful for assessing government policy that is harmful toward women specifically. It discusses the government’s perspective and how it is flawed. She also examines solutions to the problems at hand.
- Recent reporting by Vivian Tan (2013) out of Ayutthaya, Thailand, explores how men are affected by statelessness and how far they are willing to go to make a better life for their families. To flee Burma, thousands of stateless men have fashioned boats to sail to Thailand or Bangladesh. Most are ill-equipped and lack much-needed supplies including food and water. If the desired destination is reached, the men risk being detained while seeking asylum. During this long process, women are left at home with the children. Since men are seen as the protectors, they feel pressure to find a better life for their families. While Tan discusses the

impact on men, she does not articulate what the women go through without them – such as being more vulnerable to violence and harassment.

In sum, statelessness research lacks the perspectives of women but provides important starting-points for future scholarship. In order to take women seriously and protect their human rights, it is essential that their experiences be considered. Further, the impact of international law and policy must be examined to better understand if they are truly protecting the rights of women. The gender gap within international human rights will continue to exist unless we start to take into account women's experiences. This is especially true in the case of statelessness, which has serious consequences for every aspect of a person's life. Although the issue has received more attention in recent years, much work is still needed – particularly research that considers the intersection of statelessness and gender. The case of the Rohingya is just one case study that can help us better understand these human rights impacts and move forward in protecting the “right to a nationality” – and all of the human rights that go along with full membership in a community.

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