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### REFUGEES, SEXUAL VIOLENCE, AND ARMED CONFLICT: THE NUANCES BETWEEN VICTIMS AND AGENTS<sup>1</sup>

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**Abstract:** The examination of forced migration of political refugees from sexual violence in armed conflict offers a unique vantage point for exploring the relationship between structure and agency. While it is significant to acknowledge the lack of autonomy accessible to political refugees, simultaneously, it is problematic to assume that their actions do not qualify as agency. I argue that it is possible on one hand to address the lack of agency related to the imposed structure, while on the other hand, to theorize marginalized actors' form of agency based on their ability to actively negotiate forced conditions in order to secure their own and their families' safety. This theoretical shift in re-conceptualizing agency from the perspective of political refugees reveals that despite, international human rights efforts, in practice these policies may deter and marginalize refugees. Inherent gender bias and exclusion in human rights agendas serve to undermine the rights and security of refugees. Incorporating refugees' experiences negotiating conditions of violence facilitates the ability to critique and transform Western perspectives of human rights, particularly deterrent measures and individual-responsibility policies that require refugees to provide justification of their rights to security.

#### Introduction

The affinity between push factors of forced-migration related to detrimental conditions of conflict and the ability to be granted a political refugee are not necessarily mutually supported. The forced migration process that derives from sexual violence does not facilitate the ability for women to secure political refuge or asylum efficiently, despite their vulnerability. Migration processes among diverse groups of migrants, refugees, and asylum-seekers are inundated with barriers that incur a heightened degree of marginality and uncertainty in the movements across borders (see Schuster, 2011; Hyndman & Giles, 2011; Sarre, 1999; Webber, 2011). I argue that women are invalidated, based on their ability to

secure political-refugee status unless their circumstances coincide with the definition of what counts as a political refugee. Women survivors of sexual violence seeking refuge are disadvantaged because they lack agency in the forced migration process; however, I propose that they exert negotiated agency in their ability to survive and cope with the uncertainty of migration in order to secure their own and their families' safety. This paper examines the conditions that constitute women's limited agency as they interact with structural conditions of immigration that may serve to accommodate privileged immigrants more efficiently. Evidence of the conditions of marginality that derive on a continuum from armed conflict through the forced-migration process stems from general findings in the literature and the author's own experience conducting research and volunteering at both refugee and asylum social-support agencies. Based on this examination, conclusions to this paper identify the pertinence in developing a theoretical, inclusive model of action that can address the agency process of marginalized actors in the refugee and asylum system. The refugee process is founded on a policy of individual responsibility (see Davies, 2002). Accordingly, the UN 1951 Refugee Convention mandate (UNHCR, 2011) defines the right to political refugee status as

owing to a well-founded fear of being persecuted for reasons of race, religion, nationality, membership in a particular social group or political opinion, is outside of the country of origin of nationality and is unable, or owing to such fear is unwilling to avail him/herself of the protection of that country; or who, not having a nationality and being outside the country of his former habitual residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it. (p. 1)

This definition is important in identifying individuals who are vulnerable to violence due to their social identities. However, underlying this definition is the idea that those seeking political-

refugee status or asylum must prove their eligibility (Ranger, 2005; Welch & Schuster, 2005; Black, 2003; Abeyratne, 1999; Sarre, 1999). The basis of this definition and a foundational issue present throughout the forced-migration experience of women survivors of sexual victimization is their lack of agency in seeking safety and becoming validated for their experiences of violence.

Existing literature documents the deterrent policies that developed nations implement in order to limit incoming refugees and asylum-seekers under the pretense of mitigating illegal entry of economic migrants as well as protecting their own national security and resources reserved for natural citizens (Schuster, 2011; Hyndman & Giles, 2011; Sales, 2005; Mountz, Wright, Miyares, & Bailey, 2002; Abeyratne, 1999). Refugees and asylum-seekers' agency is rendered invalid based on the assumption that they are required to prove their claim (Ranger, 2001; Sarre, 1999), persuade officials that their claim is valid (Abeyratne, 1999; Black, 2003), and overcome nation-states' deterrent measures, such as third "transit" countries, economic and social resources held contingent on status, and efforts toward repatriation (Schuster, 2011; Hyndman & Giles, 2011; Barnett, 2002; Abeyratne, 1999; Loescher, 1989; Uçarer, 1989). Despite efforts to restore human rights to individuals escaping persecution, deterrent policies expose the loopholes in the system, in which accountability for the refugees' and asylum-seekers' safety is positioned against the vested interests of the host society (Sales, 2005; Einolf 2001; Abeyratne, 1999). The vast consensus among the literature is that host societies are resisting the larger international policies aimed to grant protection to refugees/asylum-seekers in a way that does not directly negate the two basic principles of refugees' rights (Neumayer, 2005; Loescher, 1989). The emergent concern with regard to devising policies on the basis of appropriate qualifications undermines the rights of refugees and asylum-seekers by forcing them into a marginalized zone in which their rights and safety are compromised. Significantly, refugees/asylum-seekers are expected to prove their case for protection based on their own resources.

However, the consequences of these policies exacerbate refugees and asylum-seekers' vulnerability, in which they lack decision-making power, agency, and autonomy. The disadvantages associated with top-down policies determined by international and nation-state agendas are illustrated by the failure to consider and support the refugee/asylum-seekers' process in securing protection from their subjective, vulnerable standpoint. Part of the lack of validation for marginalized individuals/communities seeking refugee/asylee status derives from the assumption that individuals access general autonomy and have at least minimal resources and privileges at hand. Importantly, women's eligibility to take part in forced migration as political refugees is uncertain because their experiences of victimization have to be legitimized by an outside authority (see Visweswaran, 2004). However, Feller (2002) acknowledges that despite sexual violence as a valid claim toward asylum, the UNHCR sustains the following judgment that "unless the State itself is the sexual aggressor, the regime of refugee protection cannot be invoked [. . .] unless the authorities refuse, or prove unable to offer protection" (p. 42). Theoretically, the process in which social actors develop and present claims to be authenticated by authorities requires the exertion of agency. In moving away from the assumption that women are marginalized actors, it is useful to explore the ways in which their ability to make valid claims for refugee and asylum status are focused on overcoming structural barriers relating to proving their victimization and seeking resources. The hierarchical structure between the refugee/asylum systems and applicants results in the salience of uncertainty.

Theoretically, it is pertinent to develop an inclusive model of action that can address the agency process of marginalized actors in the asylum system. Several models (see Richmond, 1993; Kunz, 1973) have devised theoretical accounts of the forced migration process of seeking refugee status and the coercive conditions that limit individuals' autonomy and agency. These

models significantly elaborate on the conditions that prevent marginalized individuals' agency potential and ability; however, their efforts utilize the distinction of posing refugees as separate from economic migrants. In addition, these models tend to contextualize the forced migration process between the country of origin and host country and depict the armed-conflict setting in a linear manner transitioning from pre-impact to post-war peace conditions and resolutions.

In response to these models, I envision an ideological and theoretical shift to first render the agency process of refugees/asylum-seekers by developing an abstract action model that emphasizes marginalized individuals. This model strives to resist individualist assumptions that require political refugees and asylum-seekers to prove their claims of insecurity in response to perceptions that they are illegally entering host societies. The abstract action model facilitates the ability to validate the agency process from a marginalized standpoint and provides a theoretical account of the experiences that refugees/asylum-seekers encounter with regard to their negotiation of international policy that presumes some manner of privilege and agency exertion to successfully secure status.

### **Risk and Vulnerability in Conflict**

In the context of sexual violence, the vulnerability to risk women experience constitutes their degree of ability to effectively negotiate migration and political refuge. The literature reveals the following selected countries as zones in which armed conflict utilized sexual violence against women as a strategy of war: "Germany (WWII), Bosnia-Herzegovina, Sri Lanka, Sierra Leone, Guatemala, El Salvador, Kosovo, Rwanda, the Congo, Iraq, and Pakistan" (see Wood, 2006, p. 311-14; Stabile & Rentschler, 2005, p. 6). Sexual violence in armed conflict places women in a precarious context in which they must negotiate between vulnerability in their homeland and the insecurity associated with

coerced migration. Particularly, the prevalence of sexual violence in war is often considered a tool to make women inferior by capitalizing on their vulnerability in an effort to reduce their self-worth (Wood, 2006; Green, 2004; Hayden, 2000). The process of sexual violence indirectly targets women as a way to implement a complex form of dehumanization that preys on women's vulnerability, destroys their families and communities, and deems men's masculinity as insufficient and weak in protecting their own honor and the honor of their families/nation (see Diken & Laustsen, 2005).

War contexts where sexual violence is exercised begins to introduce the lack of agency of women, which impacts their future experiences as coerced migrants. For example, sexual violence in war serves as a push factor in breaking women's social connections from their communities (Diken & Laustsen, 2005; Castles, 2003; Schiessl, 2002). This finding reveals the lack of resources available to women if they no longer can depend on their families and communities. In considering rape as a weapon of war, women are particularly targeted in an attempt to outcast them from their society or make them unable to function as social members within their communities (Diken & Laustsen, 2005). In addition to push factors related to the manifestation of violence, women victims seem to be forced to migrate in order to access safety. Accordingly, Green (2004) acknowledges that victims/survivors of sexual violence attempt to find institutions that provide assistance; however, in the war context social services are often damaged or are unable to mediate the consequences resulting from war. The consequences of war modify the local conditions of communities by invalidating local infrastructure and drastically altering the normal lifestyles and routines of individuals, often constituting displacement (Wood, 2004; Castles, 2003). In examining the breakdown of local contexts as a result of war and sexualized violence, women become vulnerable if they attempt to stay since social resources and authorities are unable to mitigate the war outcomes. From this context, women's

marginality is evident in their inability to remain in their community due to violence as well as the fact that they lack the resources to plan their migration (Schafer, 2002). Moreover, the destruction of their normal context makes their exercise of agency limited because their prior social context and social networks are no longer appropriate to their present conditions.

Within the context of armed conflict, women's invisibility manifests at the local and international level, in which their access to human rights fails to be prioritized. Based on the violent and detrimental conditions central to war practices, women must negotiate lack of safety and resources in order to reduce their vulnerability. Significantly, Schmeidl (1997) finds that "political violence, genocide, and foreign military intervention" constitute as "push factors" for political refugees (p. 302). Forced migration results from a precarious situation in which women survivors of sexual violence, along with their families, must not only evacuate their homeland out of fear of or actual violence and victimization, but also must negotiate the refugee or asylum process and adapt to a new country. Additionally, refugees of armed conflict may experience mental and emotional trauma, such as "post-traumatic stress disorder and depression" (Ahearn & Noble, 2004, p. 403; Kanter, 2008, p. 62; Boersma, 2003).

The examination of the forced migration of political refugees offers a unique vantage point for exploring the relationship between structure and agency from the perspective of marginalized individuals. In armed conflict and war contexts in which women are vulnerable to sexual violence, the conditions coerce individuals to migrate toward safe zones in order to decrease their exposure to violence. Briefly in considering forced-migration factors, women survivors are constituted by several disadvantages that include gender inequalities, trauma and/or fear of sexual violence, loss of community resources, family needs, possible transnational migration routes, and lack of knowledge to negotiate the refugee/asylum process, etc. (Wood, 2006; Green, 2004; Diken &

Laustsen, 2005; Schafer, 2002; Castles, 2003; De Jongh, 1994). Moreover, the salience of uncertainty marginalizes refugees and counters their agency efforts (see De Jongh, 1994).

Refugees forced to escape the violent conditions of their known context experience vulnerability not only in their immediate situation, but also in the refugee and asylum processes. Here they lack autonomy and the decision-making power to voluntarily migrate (Schafer, 2002). In addition, women survivors as refugees are expected to adapt to and participate in host countries (De Jongh, 1994; Pickering, 2007). In this context, individuals lack autonomy to decide their immigration process and maximize their security and sense of self-worth.

### **Gendered Marginalization in Refugee Camps**

Importantly, women as refugees face a high degree of vulnerability not only within the context of armed conflict, but in their process of seeking safety in temporary or permanent opportunities of refuge/asylum. Although it may be envisioned that women access safety by fleeing the armed-conflict zones, the literature in general documents the refugee process as subjecting women to inequalities, poor conditions, lack of communal support, and further violence (Ashford, 2008; Ahearn & Noble, 2004). Here, the country of origin's condition is interconnected with the refugee process or ability to secure asylum in a particular host country. The war context is constructed as a dangerous zone for women in particular, which subsequently creates a dichotomous other half that conceptualizes areas that provide resources for refugees as safe.

Specifically, the refugee process involves seeking resources as individuals dependent on larger agencies in order to escape insecurity in armed-conflict settings. However, the new conditions of refugee centers incorporate risks that exacerbate their vulnerability. For example, Nikolic-Ristanovic (2003) argues that



“[t]he sudden and forced exile led to the feeling of being uprooted [. . .]. They do not plan for years ahead but live from day to day, without a real opportunity of settling down and starting a new life” (p. 107). This description identifies the vulnerability of women as refugees in a state of transition and uncertainty. In discussing women’s vulnerability, especially in regard to exploitation by agents providing resources, Ross-Sheriff (2006) argues that women ignore or do not fully address their victimization in order to survive. Specifically, Ross-Sheriff (2006) states that “[t]he women coped by holding their families together,” (p. 210) and further illustrates the coercion to migrate based on the following statement: “I felt we must leave just for the safety of our men and our children” (p. 210). Here women enact roles of protecting and caring for their families because they are in a position in which their survival as a whole is based on the ability to seek refuge in a safer area. Women must negotiate their risk of victimization in order to seek conditions that may be safe for their families.

However, the process of transition that refugees experience, including the areas that provide resources, are unsafe as well. The literature reveals that women are particularly vulnerable in refugee camps (Declich, 2001; Muggah, 2003; Hynes & Cardozo, 2000; Salehyan, 2008). According to Schafer (2002), refugee camps offer basic necessities to forced immigrants, and often this process is lengthy; for instance, “it was possible for an asylum seeker to wait in the camp for up to three years for grant of asylum” (p. 34). Despite potential access to housing and food among other resources, women survivors are not necessarily safe once they are no longer a part of the war context and are now contextualized in refugee camps (Muggah, 2003). In general, Hynes and Cordozo (2000) claim that “[r]efugee camps usually lack secure shelter and protection for women, making them even more vulnerable to attack” (p. 820). Based on these conditions, women’s access to safety is diminished, even when authorities are present to provide them with protection. There appears to be a continuum of marginality based on initial lack of resources, social connections,

and victimization stemming from armed-conflict consequences, which are not resolved in the refugee or asylum processes. Refugee camps seem to contribute to gendered vulnerability by placing women in a context of risk. This process is problematic because women are at risk of victimization in a setting in which they are openly identified as victims and dependent upon the protection of authorities.

Additionally, the refugee context may generate risk as a result of the structuring of the camp and resource availability. Particularly, Koshen (2007) asserts that “[d]espite having crossed borders in search of safety, the refugees’ security was not guaranteed [ . . . ]. Even the simple search for firewood beyond the safety of their camps exposed women to sexual violence” (p. 82). This depiction is significant because refugee camps may stimulate risks to sexual violence. It appears that the refugee process is approached from a top-down policy that neglects to consider women’s needs as well as the resources needed to sustain their families and reduce risk. For example, situations that fail to meet male members’ needs to provide for their families may encourage them to look for resources, which simultaneously increases women’s risk. As mentioned in the example of “women collecting firewood,” women may be more at risk to victimization because their roles expose them to different responsibilities or to conduct tasks in isolation (Koshen, 2007). In securing additional resources, Declich (2001) also finds that women are at risk to sexual violence, especially in venturing outside of the camp. This is an important issue to address because the salience of women’s gendered inferiority increases their visibility to perpetrators. Their marginal position, both socially and as a result of their refugee status, places women at risk to violence.

In an effort for women refugees to access necessities, risks to violence increase since their vulnerability was positioned against the need for resources. Nicolic-Ristanovic (2003) theorizes that women in the asylum process are vulnerable to sexual violence as

evidenced in the following statement: “[s]ome women were blackmailed by men. Men occupy all the key positions in different institutions (hotels, collective shelters, etc.) and, of course, they use their positions in order to make women sleep with them even for small favours” (p. 109). This example illustrates not only women’s vulnerability to sexual violence, but also their limited agency because they are responsible for providing for their families through accessing resources that are controlled by men in power. In addition, Ashford (2008) documents that women in refugee camps are subject to “violence, rape and extortion in camps, where often warlords control food distribution and protection” (p. 197). Consequently, women may be coerced to submit to the demands of perpetrators in an effort to survive and provide for their families. Accordingly, Drumm, Pittman, and Perry (2001) assert that women are already victims of the war context in which they were victimized, and their process of healing in their transition as refugees incorporates additional vulnerability as a result of uncertain economic resources and risks of further victimization. Refugees occupy a liminal space here because they are in a vulnerable state of transition, in which their homeland of origin invalidates their needs, and they are unable to access adequate rights or protection.

### **Theoretical Resolution**

Although women survivors of sexual violence lack agency in the migration process as a result of the coercive conditions, political refugees’ experiences and process of migration does not necessarily negate their agency. While it is significant to acknowledge the lack of autonomy accessible to political refugees/asylum-seekers, simultaneously it is problematic to assume that their actions do not qualify as agency. I argue that it is possible, on one hand, to address the lack of agency related to the imposed and coercive objective structure, while on the other hand, theorize marginalized actors’ form of agency based on their ability to respond to coercive structures and actively negotiate these

conditions in order to secure their own and their families' safety. Addressing the structurally limiting conditions is significant because women are dependent on the system's policies. Individuals are coerced to migrate from conflict and tend to experience a lack of access to adequate rights or protection in the refugee/asylum process as a result of their marginal status (Ashford, 2008; Ahearn & Noble, 2004; Pickering, 2007). Based on this brief contextualization of refugee experiences, structure has to be re-conceptualized in a primary role linked to constituting agency. The emphasis on structure as imposing limitations on agency is significant because marginalized individuals may lack opportunities to inform structural policies and may experience limitations to their agency potential as a result of their non-autonomous status. Albeit, women as forced migrants are conscious actors that interact with and respond to structural constraints.

Human rights and peace operations seem to implement policies that require individuals to exert agency as resourceful, autonomous actors. For example, they are expected to seek resources in refugee camps, provide for their families, and also secure refugee or asylee status by crafting cases regarding their experiences (see Ranger, 2005; Shafer, 2002; Barnett 2002; Sartre, 1999). These expectations of individual responsibility to secure safety and gain rights overlook refugees' vulnerability. The dilemma that arises in recognizing women's vulnerability and the lack of agency in forced conditions of violence is with regard to how to account for the agency they do exert and how their agency is simultaneously restricted as a result of structural barriers and inequalities. I argue it is necessary to conceptualize action as a form of negotiation with regard to how marginalized actors respond and interact with structural constraints, even if their action fails to modify structure.

The component of response as a form of agency is a significant addition to earlier conceptualizations of agency (Parsons, 1968; Giddens, 1984) because rather than assuming that a response to

structural conditions implies no active agency on the part of an actor, it can be re-conceptualized as a conscious process of consulting with structural conditions. In the armed-conflict and migration context, agency can be conceptualized to explore how individuals seek ways to mitigate vulnerability associated with detrimental structural conditions. Importantly, agency as a negotiation process removes the presumption of power associated with actors' ability to manipulate structural conditions based on their own means-end motivations by acknowledging the likelihood that for marginalized individuals, structural conditions may seem coercive and dominant (Parsons, 1968; Giddens, 1984). Giddens' (1984) definition of agency emphasizes power by stating that "[a]gency concerns events of which an individual is the perpetrator, in the sense that the individual could, at any phase in a given sequence of conduct, have acted differently" (p. 9). The problematic assumption concerning this definition of agency is the given degree of power accessible to individuals. In response to this definition, disadvantaged individuals may be hindered to adequately evaluate and exercise alternative options to the same degree as a privileged actor. Agency has to be tailored to address the process of action engaged in by disadvantaged individuals and the likelihood that their actions may be constituted by the context and structural policies in place. Simply, the revised conception of agency facilitates the ability to situate actors within structural conditions, and identify and validate marginalized actors as agents, even if they are unable to constitute the conditions of objective structure and social norms. The broadening of agency acknowledges an active consciousness of all actors, but takes into consideration the power and restrictions of a structural framework that may not be mitigated by actors equally or effectively. Agency in diverse contexts may take different forms, but the overall conceptualization of agency is to validate the ability of actors to consult with the situation and others, and negotiate these contexts actively, even if they are unable to manipulate structure to coincide with their subjective needs.

Understanding the action process of individuals in the forced migration setting provides researchers and policy makers the ability to identify the structural barriers that contribute to the gendered vulnerability experienced by forced migrants. For instance, Archdeacon (1983) proposes that “[r]esearchers must not only continue to recount the histories of various immigrant and ethnic groups but must also begin to give more attention to that neglected dimension of the field which seeks to understand immigration and ethnicity as a process” (p. 123). This idea is applicable to the forced migration and refugee/asylum processes of women survivors of sexual violence because it facilitates the opportunity to explore how women migrate from a position of limited autonomy. The larger process of forced migration fails to take into account women’s marginalized status, and as a result, women’s degree of vulnerability is continuously magnified throughout their efforts to seek safety. For example, at the international level, the normalization of sexual violence has not been fully mitigated. Despite efforts toward recognizing the systemic violence perpetrated in the wars in Bosnia-Herzegovina and Rwanda, particularly with regard to rape identified as a tool of genocide (Kennedy-Pipe & Stanley, 2001; Richey, 2007; Scholz, 2006; Ellis, 2006; Koo, 2002), this transition from rape as a spoil to weapon of war neglected to fully address women’s gendered risks. In this process of viewing rape as a “weapon of war,” women become re-neglected because the emphasis on treating rape as a crime is based on its consequences to the community and overlooks the primary victimization of women (see Richey, 2007). Accordingly, Koo (2002) claims that “women are deliberately made invisible in international space” (p. 526). In this sense, women are unable to fully mitigate their vulnerability because the system neglects to validate their experiences of victimization and account for the lack of autonomy and negotiation in the process of forced migration. Furthermore, the imposed segregation of either labeling individuals as economic migrants or political refugees may actually increase the structural barriers encountered by refugee (see Black, 2003), rather than facilitating their access to

greater human rights afforded by refugee/asylee status. The refugee and asylum system is characterized by officers' ability to identify and restrict the entrance of economic migrants posing as refugees or asylum-seekers; however, the effects of this process place additional pressure on individuals to prove that they indeed have experienced persecution that makes them eligible for protection by the host society (see Shafer, 2002; Ranger, 2005).

However, it is important to recognize that women do engage in agency because they are able to survive and migrate to other host countries. At this stage an emphasis on negotiated agency facilitates the ability to explore action situations enacted by marginalized actors. Addressing agency from this perspective seeks to understand the degree in which structural barriers exist in limiting the will of actors, while also exploring the process by which marginalized actors negotiate structure and other privileged actors in order to attain their ends. Overall, in order to accurately address the experiences of women survivors of sexual violence and improve the system, it is critical to address the entire process of forced migration regarding women's conditions in their country of origin at the time of war and how this marginality informs their navigation of human right access.

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