

‘THE HIGHEST ATTAINABLE STANDARD’

The Right to Health for Refugees with Disabilities



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Overview

- Global approaches to disability and disability in displacement
- International legal framework for health rights
- The study and displacement contexts
- Access to health services
- Disability and wellbeing
- Concluding reflections



Global approaches

To disability...

- CRPD art 1: PWDs incl. 'those who have long-term physical, mental, intellectual or sensory impairments, which in interaction with various barriers may hinder their full and effective participation in society...
- WHO global survey – 2.9 – 12.4% disability prevalence, higher in developing countries

To disability in displacement...

- Research efforts to overcome lack of data
- HelpAge/Handicap International 2014: 20% prevalence amongst Syrian refugees
- Efforts to move from charity model to human rights approach – various UNHCR initiatives (2010 ExCom Conclusion, 2011 Need to Know Guidance, 2013 Resettlement Tool)

International legal framework

■ Human Right to Health:

- ICESCR art 12(1): ‘ the right of everyone to the enjoyment of the highest attainable standard of physical and mental health’ – universal, without qualifications.
- Confirmed by CRPD arts 25 and 26.
- CPRD art 11 – rights apply regardless of situation - states parties must:

Take, in accordance with their obligations under international law, including international humanitarian law and international human rights law, all necessary measures to ensure the protection and safety of persons with disabilities in situations of risk, including situations of armed conflict, humanitarian emergencies and the occurrence of natural disasters.

International legal framework

- Foundational: prerequisite to enjoying other rights
- Individual access and conditions, rather than broad statistics
- Interconnected nature of health/wellbeing and other rights/ socio-economic factors
- CRPD – additional emphasis on access – art 5(3) ensure reasonable accommodation to overcome inequality, art 9 measures to improve accessibility
- CRPD 26, states must take action (through habilitation and rehabilitation) to assist people to:
 - *attain and maintain maximum independence, full physical, mental, social and vocational ability, and full inclusion and participation in all aspects of life*

Human rights framework in refugee host countries

| Treaty | Malaysia | Indonesia | Pakistan | Uganda | Jordan | Turkey |
|------------------------------|-----------|------------|-----------|-----------|-----------|-------------------------|
| Refugee Convention /Protocol | No | No | No | 27/9/1976 | No | 30/3/1962 31/7/1968* |
| CRPD | 19/7/2010 | 30/11/2011 | 5/7/2011 | 25/9/2008 | 31/3/2008 | 28/9/2009 |
| ICESCR | No | 23/02/2006 | 17/4/2008 | 21/1/1987 | 28/5/1975 | 23/9/2003 |

The study

Protection of Refugees with Disabilities,
CIs Mary Crock, Ben Saul, Ron McCallum,
Sydney Law School

Fieldwork: Malaysia + Indonesia (2012),
Pakistan + Uganda (2013), Jordan +
Turkey (2014).

Interviews with Govt/NGO officials, and in
refugee communities.

Structured questionnaires: testing
disability identification, exploring
experiences and needs.

Statistical data – 2011 UNHCR/Pakistan
Government Survey of Afghans



Displacement contexts

■ Malaysia

- *Limited legal structures, UNHCR-led operations*
- *Urban refugees, high self-sufficiency*
- *c. 150,000 pop, 85% Burmese*
- *Focus on resettlement – 3290 resettled in 2017*
- *2016 Joint Taskforce – improving health, biometrics, increased respect of UNHCR IDs*

■ Indonesia

- *Limited legal structures, UNHCR-led operations*
- *Urban refugees, more reliance on NGO support*
- *c. 14,000 pop supported by UNHCR*
- *760 resettled in 2017, but current Aus/US restrictions leading to drops.*
- *Presidential Regulation 2017 – increased legal recognition of UNHCR RSD*

Displacement contexts

■ Pakistan

- *Long history of hosting, informal/policy structures*
- *Mostly urban, high self-sufficiency, some support*
- *c. 1.4 million, mostly Afghan, protracted + ongoing*
- *Resettlement exceptional*
- *Government issued ID cards, limited access to citizenship*

■ Uganda

- *Long history of hosting, with legal structures in place*
- *Urban, settlement, camp*
- *c. 1.4 million, several neighbouring countries, protracted + ongoing*
- *Resettlement exceptional*
- *Government RSD, some restrictions on movement, limited access to citizenship*

Displacement contexts

■ Jordan

- *Some legal structures, access to local services. Syrian-specific policy*
- *734,000 UNHCR reg'd, govt estimates much higher (2017)*
- *Transition from emergency to protracted*
- *Development of new law/policy to increase integration*
- *Small local population, highly strained resources (eg. water)*

■ Turkey

- *Some legal structures, access to local services. Syrian-specific policy*
- *3.6 million UNHCR estimate (2018)*
- *Transition from emergency to protracted*
- *Development of new law/policy to increase integration*
- *Additional linguistic and cultural barriers*

Access to health: Overview

■ Malaysia

- Free NGO/refugee-community-run clinics + one-off financial support
- New REMEDI health insurance scheme
- Mobility difficulties most common, followed by vision
- Substantial non-elicited reports of pain.
- Disability acquisition after arrival
 - unsafe work & communicable diseases
- Mental health needs a challenge

■ Indonesia

- More case-by-case support, including secondary/specialist services
- Less established refugee communities, more reliance on NGOs like IOM
- Similar reports of functional difficulties
- Disability acquisition – detention-related injuries, psychological challenges of indefinite displacement
- Mental health needs a challenge



Access to health: Overview

■ Pakistan

- Push towards mainstreaming refugee health services
- Survey identified 8.2% functional difficulty prevalence
- Vision difficulties most common
- Gender and age divisions
- Correlation between chronic disease and functionality

■ Uganda

- Vision, mobility and cognition most commonly identified
- Pain experiences very common
- Sexual violence commonly reported (10-15%), without specific question
- Strong correlation between disease, untreated health needs and functionality



Access to health: Overview

■ Jordan & Turkey

- 2017 Jordan survey: 23% disability prevalence, 62% of households.
- Illness/disease most common cause amongst women, injury amongst men.
- Adults: mobility difficulties, children: mental health/communication difficulties



Access to health services: Barriers

| Barrier | Overall Challenges | Additional Barriers |
|-------------------------|---|--|
| Affordability | <ul style="list-style-type: none"> • Most commonly identified. • Refugee incomes < national poverty lines. • Compounded by ltd access to public services, specialist care not publicly funded | <ul style="list-style-type: none"> • PWDs often lower incomes. • Costs compounded by transport inaccessibility • Assistive devices/special services less likely to be free |
| Bureaucratic | <ul style="list-style-type: none"> • 'Urgent' treatable needs prioritized. • Travel clearance/address registration • Aged-based programs/ exclusion | <ul style="list-style-type: none"> • Less support for chronic/incurable conditions • Fear around disclosure – impacts on RSD/resettlement outcomes |
| Demand/ resources | <ul style="list-style-type: none"> • Public/NGO services are overburdened and cannot meet demand | <ul style="list-style-type: none"> • PWDs pushed to back of queues, experience distress/ discrimination. • Overreliance on private/high-fee services • Limited places for specialist/secondary services |
| Geographic/ physical | <ul style="list-style-type: none"> • Affordable and/or specialist services are located far from refugee homes | <ul style="list-style-type: none"> • Limited accessible transport • Requiring friend/family assistance to navigate to/access service • Physical inaccessibility of buildings – stairs, toilets |
| Communication | <ul style="list-style-type: none"> • Language barriers between refugees & service providers. | <ul style="list-style-type: none"> • Info may not be shared in accessible formats, • Interpreting in non-local sign languages is limited • Risk of social isolation = less access to info |
| Social/ cultural | <ul style="list-style-type: none"> • Stigma re. certain conditions/experiences • Ethnic, religious, age, gender-based discrimination | <ul style="list-style-type: none"> • Specific impairments/disabilities attract direct discrimination or deter disclosure/encourage isolation |

Disability and wellbeing

- Experiencing health means much more than access to health services
- Socio-economic precariousness – food, water, shelter
- Legal status – work rights – injury risks
- Community participation and social connection – psychosocial wellbeing, increased access to other needs
- Additional barriers for people with disabilities → increased risks for wellbeing



THANK YOU

Crock, M.; Smith-Khan, L.; McCallum, R.; Saul, B. *The Legal Protection of Refugees with Disabilities: Forgotten and Invisible* (Edward Elgar, 2017).

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