

WORKING WITH NATIONAL OR ETHNIC, RELIGIOUS AND LINGUISTIC MINORITIES AND INDIGENOUS PEOPLES IN FORCED DISPLACEMENT



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objective

Minorities and indigenous peoples are among the most marginalised communities in many societies: they are often excluded from participation in socio-economic life, rarely have access to political power and frequently encounter obstacles to manifesting their identity. These obstacles are multiplied during forced displacement and increase protection risks. It is important for UNHCR to ensure that the rights of refugees and other displaced populations¹ who are members of minority and indigenous groups are met without discrimination. This places an onus on offices to develop a thorough understanding of the circumstances of minority and indigenous persons under their care. This note provides staff and partners with guidance on a range of issues when working to meet these responsibilities.

overview

Members of ethnic, religious or linguistic minorities and indigenous peoples can comprise a large proportion of those seeking international protection. Furthermore, in many parts of the world, they are the victims of severe human rights violations, violence, conflict, ethnic or religious persecution, and in extreme cases, genocide.

A **minority** is an ethnic, religious or linguistic group, fewer in number than the rest of the population, whose members share a common identity.^{2, 3} Minorities are usually non-dominant in comparison with majorities in the economic and political spheres of their countries. Members of minorities also share ethnic, religious, linguistic or cultural characteristics that differentiate them from majorities, and they generally seek to maintain these distinguishing identities. At the same time, the characteristics defining minorities may vary from one context to another, for example; as regards whether a group's minority identity is primarily ethnic, religious or both.

Indigenous peoples generally have a historical continuity with pre-invasion and pre-colonial societies that developed on their territories. This continuity may be in the form of occupation of ancestral lands (at least in part), ancestry, language and/or cultural manifestations. These historical links are sometimes reflected in the term “first peoples”. As with minorities, indigenous communities tend to be non-dominant compared with majorities. Indigenous peoples enjoy particular rights, including the right to practice customary law and the right to protect traditional knowledge, intellectual property and cultural heritage.⁴

Caste-based groups facing discrimination on account of their profession and descent are also considered minorities for the purpose of this guidance as they often face the same challenges as minorities. While this term is usually associated with South Asia, there are communities facing such discrimination in other regions as well. This type of discrimination can be very severe and is often associated with notions of untouchability.

Finally, there is a possibility that refugees belonging to a majority in their country of origin may end up in a **minority-like situation**. This is especially true if they arrive in a location where persons of the same ethnic, religious, linguistic or indigenous community are treated in a discriminatory manner by the local majority. Although such refugees will not suffer from the debilitating effects of past discrimination, they may now be at risk of exclusion and marginalisation.

Refugees who are members of minorities or indigenous peoples are likely to be affected both by the immediate events leading to their displacement and by the long-term legacy of discrimination. This amplified discrimination might affect some members of the community more than others, particularly women, children, persons with disabilities, older persons and Lesbian, Gay, Bisexual, Transgender and Intersex (LGBTI) ⁵ persons. It is therefore essential to apply an Age, Gender and Diversity (AGD) approach if UNHCR is to achieve its commitment to ensure that all protection activities, including durable solutions, are accessible to, and include, minorities and indigenous people.

non-discrimination and participation: keys to protection

Minorities and indigenous groups are often discriminated against and socially excluded. To protect their rights, three principles are enshrined in international law:⁶

- Protection of identity;
- Non-discrimination; and
- Effective participation.

These principles must also be guaranteed in situations of forced displacement, when minority and indigenous refugees may be both socio-economically and physically isolated. Achieving a high standard of protection is only possible if an inclusive and participatory approach is adopted. The inclusion of members of minority and indigenous groups in policy formulation and consultation processes is key to developing and implementing appropriate solutions to the problems they face. Consultation and participation through all phases of crises and protracted situations is essential. Minority and indigenous refugees must have access to the information necessary to make their participation meaningful. The information and instructions concerning basic services must also be presented in appropriate ways and in relevant languages. Moreover, their spokespersons must be truly representative. Be alert to the fact that sometimes “leaders” do not represent the best interests of the entire group. Information they provide needs to be systematically cross-checked with a range of sources, using an AGD approach.

To ensure that members of minority and indigenous groups do not suffer discrimination, be aware of personal preconceptions or attitudes. Prejudice may stem from a lack of knowledge about minorities. Exclusion of minorities during displacement can be inadvertent or purposeful: in either case, it is discriminatory.

When working with interpreters, consider their background and their attitudes when communicating with minority and indigenous refugees. Even when an interpreter behaves professionally, there is a risk that a minority or indigenous refugee will not speak openly if the interpreter comes from a majority community in the country of origin.

action

- Consult and involve minority and indigenous refugees in decision-making, programming and leadership, giving them the means to voice their opinions and participate fully in the design, assessment, monitoring and evaluation of humanitarian activities and assistance.
- Consider your own attitudes and preconceptions, as well as those of supervised colleagues, and ensure that you are aware of what is and is not appropriate behaviour. UNHCR's *Code of Conduct* sets out clear norms and requires managers to take action when inappropriate behaviour is identified. Staff sensitization training will often be necessary.
- When possible, use interpreters belonging to the same community as the minority group, ensuring that they have received appropriate orientation and training and have signed the applicable *Code of Conduct*.

key considerations

Self-identification

Self-identification is a key principle for the treatment of minorities and indigenous groups. They have the right either to define themselves as belonging to a certain minority or indigenous people, or crucially to avoid doing so. An individual refugee will almost certainly be in the best position to know whether it is safe to be open about her or his minority or indigenous membership. This is particularly relevant in Participatory Assessments: do not make assumptions about minorities and indigenous groups. Only define someone as a member of a group once they have done so themselves.

action

- Ensure that you understand the principle of self-identification.
- Ensure that conditions are sufficiently secure for persons to feel comfortable about identifying themselves as members of a minority or an indigenous people. Make sure that persons not wishing to self-identify are not forced to do so, especially in situations where they may be at risk.
- When organising a meeting with a minority or indigenous individual or a group, make sure that measures to ensure their security and privacy are in place.

Introduce rights-based protection and inclusive programming

Minority and indigenous refugees should have the same opportunity as other refugees to enjoy the full range of their human rights without discrimination, including access to asylum procedures and humanitarian programmes.

Provision of protection and basic services such as water, sanitation, food and health care should not reinforce discriminatory attitudes, although arrangements for provision may need to be adjusted to accord with the cultural practices and norms of minority and indigenous communities in order to ensure that all refugees benefit. If special measures are necessary, avoid any appearance of giving minority and indigenous refugees preferential treatment as this may cause tensions with other refugees or the host community.

action

- Familiarise yourself with the socio-economic situation of each minority or indigenous community represented in the population you work with.
- Study international and national guidelines, which are relevant to the protection of minority and indigenous refugees.

Support to maintain identity

The right of minorities and indigenous refugees to maintain their identity includes being able to express their characteristics and to develop their culture, language, religion, traditions and customs. Moreover, minorities and indigenous refugees should be able to establish their own associations, speak their languages freely in private and in public, and learn in their mother-tongue language.

Minorities may be at risk of losing important aspects of their cultural identity if they are divided.⁷ The cultures of some minorities and indigenous peoples can disappear as a result of displacement if they are unable to maintain their defining characteristics. This is especially the case if the groups are small to begin with and are cut off from key bearers of their cultures such as religious leaders, teachers and other role-models. The absence of ritual equipment or sites may also make it difficult for minority and indigenous refugees to perform traditional customs. These may be particularly important to people who are attempting to process distressing events or adjust to new surroundings.

The situation of minority and indigenous refugees can be improved if the learning and sharing of culture among communities (the local community, the refugee majority, and minority groups) is facilitated and encouraged. Learning about other cultures helps to foster respect and understanding. Minority and indigenous children learn most effectively if initially taught in their mother-tongue. Facilitate the establishment of own-language training projects by minority and indigenous refugee communities. At the same time, minority and indigenous children need training in official host community languages to gain knowledge of majority communities and access to services and opportunities.

action

- Minority and indigenous refugee communities should be able to remain together in order to maintain their cultural heritage and identity, if they wish to do so. This principle should also be applied in the context of durable solutions, provided that it does not interfere with the individual's right to individual choice.
- Provide space for practicing cultural traditions and strengthen community groups.
- Consider instituting training programmes in both directions for minority and indigenous as well as majority refugees on the cultures, traditions and values of the other communities. These should be designed with the active involvement of the communities themselves.
- Wherever possible, minority and indigenous refugee children should be given access to mother-tongue education. At the same time, they should be included in regular education programmes to prevent isolation.

Consider overlapping discrimination and protection needs

Be aware of the risk of multiple or overlapping discrimination. Members of minority and indigenous communities may be at risk on account of their gender, sexual orientation, gender identity, age or health situation, as well as their minority or indigenous status. This risk of harm can come from both within their own family or community, or from the surrounding population. They may become victims of violence but unable or unwilling to gain access to protection or justice. Issues of shame, not wanting to be disloyal to the community or discrimination (including fear of discrimination), may make it particularly difficult for such persons to approach UNHCR, partners or local authorities.

Given that minorities and indigenous peoples often experience long-term poverty, they may be at risk of becoming victims of trafficking, including sexual exploitation. This risk

multiplies in a situation of displacement and is particularly acute for minority and indigenous children and women.

action

- Analyze minority and indigenous groups from an Age, Gender and Diversity perspective.
- Encourage the involvement and meaningful representation of minority and indigenous women, LGBTI persons, persons with disabilities, older persons and any other groups at risk of marginalisation – as long as this can be done safely.

Ensure physical security

Refugee populations are vulnerable to cross-border attacks if they remain in border regions. If violence in countries of origin targets minority or indigenous communities, it may spill over borders and affect members of those groups in their countries of asylum. Some minority and indigenous refugees are particularly vulnerable to attack, including children and women, men and community leaders who are perceived to be potential combatants.

Minority and indigenous refugees may find themselves living near persons who targeted them in their country of origin, or who share the discriminatory attitudes of those who targeted them. Members of host communities may share kinship ties or other forms of affiliation with agents of persecution in the country of origin. Be prepared to identify and evacuate threatened refugees to safe places – either elsewhere in the country of asylum or, if necessary, abroad through resettlement.

action

- Review all the potential threats facing minority and indigenous refugees, in close consultation with minority and indigenous community groups.
- All steps must be taken to protect minority and indigenous refugees from cross-border attacks or from violence committed by other refugees or by members of host communities. Be prepared to provide safe accommodation and/or offer evacuation in the most extreme circumstances.
- Consider the risks that your locally employed colleagues may face, if they belong to a minority or indigenous community.

Ensure data collection

The effective participation of minority and indigenous communities requires the collection and monitoring of data on their situation. This data should be broken down according to minority/indigenous status, gender and other possible grounds of exclusion. Fully disaggregated data is vital in order to be able to identify problems which may otherwise not be apparent, due to the marginalisation of these communities, and to design and evaluate appropriate interventions.

action

- Promote and support the collection of fully disaggregated data on minority and indigenous refugees. Data should be collected in a sensitive manner. It should be explained to refugees why data is being gathered and how it will be used. All information concerning identity should be anonymous and that fact should also be communicated.

Pay attention to lack of documentation and statelessness

Minority and indigenous refugees are even more likely than majority refugees to lack documentation, due to discrimination in their countries of origin. This may affect whether they hold identity papers, birth certificates or marriage certificates.

Statelessness is a further risk factor. Be aware that withholding citizenship from minority and indigenous communities can be a deliberate government policy or the result of long-standing exclusion. Statelessness can place affected minority and indigenous refugees in a particularly precarious and unprotected situation.

action

- Be prepared to intervene on behalf of minority and indigenous refugees who experience protection problems because they lack identity documents or are stateless.

Be aware of harmful traditional practices

Not all the traditional practices of minorities or indigenous peoples conform to international standards, such as the right to physical integrity. The prevalence of harmful traditional practices, which have a disproportionately high impact on women and girls, may increase during displacement and migration as communities seek to reaffirm their identities. Educational programmes may be needed; these are most effective when they are run cooperatively with the affected community. If there is a negative reaction, remember that cultures are never homogeneous and that some members of the community are likely to oppose the practice in question. Traditional justice systems can be useful for settling small disputes in a minority or indigenous community. However, crimes such as rape or sexual abuse should be dealt with through national legal systems.

action

- Monitor the occurrence of harmful traditional practices and seek opportunities, in close consultation with the affected community, to address them. Work with the community to identify alternative practices that uphold values without violating rights.
- Educational programmes are most effective when they involve all sections of the affected community. Respect and cultural sensitivity must always be shown.

key resources

- UN Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities (1992), at: <http://www2.ohchr.org/english/law/minorities.htm>.
- UN Declaration on the Rights of Indigenous Peoples (2007), at: <http://www2.ohchr.org/english/issues/indigenous/declaration.htm>.
- UNHCR, The UNHCR Tool for Participatory Assessment in Operations (2006), at: <http://www.unhcr.org/refworld/docid/462df4232.html>.
- UNHCR, A Community-based Approach in UNHCR Operations (2008), at: <http://www.unhcr.org/refworld/docid/47da54722.html>.
- UNHCR, Heightened Risk Identification Tool (2010), at: <http://www.unhcr.org/refworld/docid/4c46c6860.html>.
- UNHCR Handbook for the Protection of Women and Girls (2008), at: <http://www.unhcr.org/refworld/docid/47cfc2962.html>.
- UNDP, Marginalised Minorities in Development Programming: A UNDP Resource Guide and Toolkit (2010), at: http://www.dev.undp.org/undp/en/home/librarypage/democratic-governance/human_rights/marginalised-minorities-in-development-programming-a-resource-guide-and-toolkit.html.
- UN Development Group, Guidelines on Indigenous People's Issues (2008), at: <http://www2.ohchr.org/english/issues/indigenous/docs/guidelines.pdf>.
- Pamphlet No. 12 of the UN Guide for Minorities: Protection of Refugees who belong to Minorities, at: <http://www.ohchr.org/EN/Issues/Minorities/Pages/MinoritiesGuide.aspx>.
- Minority Rights Group International, World Directory of Minorities and Indigenous Peoples, at: <http://www.minorityrights.org/directory>.
- UNHCR, Code of Conduct, at: <http://www.unhcr.org/422dbc89a.html>.

endnotes

- 1 The term “refugee” is used throughout the document, but the guidance provided is applicable to asylum-seekers and, depending on the context, to internally displaced, stateless and other persons and groups of concern to UNHCR.
- 2 See Article 27, International Covenant on Civil and Political Rights (ICCPR). Please note that in popular use the term “minority” may also be used to identify groups defined by other characteristics such as sexual orientation, gender identity, etc. These are the subject of other notes in this guidance series.
- 3 The term **national minority** is also used, especially in Europe.
- 4 It should be noted that some minorities also consider themselves to be indigenous peoples and may use both terms. However, many indigenous communities refuse to call themselves minorities, since they consider that all other populations came to their territories and the term “minority” may not reflect the size of the population in their countries of origin. The term tribal peoples may be used in some contexts; “tribal” and “indigenous” are often used interchangeably, also by communities themselves.
- 5 The acronym LGBTI describes a diverse group of people who do not conform to conventional or traditional notions of male and female gender roles. LGBTI people are also sometimes referred to as “sexual, gender and bodily minorities”. A lesbian is a woman whose enduring physical, romantic and/or emotional attraction is to other women. Gay is often used to describe a man whose enduring physical, romantic and/or emotional attraction is to other men, although the term can be used to describe both gay men and lesbians. Bisexual describes an individual who is physically, romantically and/or emotionally attracted to both men and women. Transgender describes people whose gender identity and/or gender expression differs from the sex they were assigned at birth. The term intersex covers bodily variations in regard to culturally

established standards of maleness and femaleness, including variations at the level of chromosomes, gonads and genitals. Homosexual refers to women or men who are attracted primarily to people of the same sex. The term is considered by many to be derogatory.

- 6 UN Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities.
- 7 This may occur during transit, in the course of integration in the country of asylum, or as a result of resettlement.

NEED TO KNOW GUIDANCE

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