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REFUGEE AND IMMIGRANT WOMEN: AN INTERNATIONAL PERSPECTIVE

An Introductory Note

Guida Man

Research in migration has historically either failed to include women in the analysis, or has conflated women's experience with their male counterparts, and has subsumed it under men's experience. This is true with regard to both migration theories and methodologies, which have ignored women's situation and experience as the basis of inquiry. The female domain of production and reproduction is considered uninteresting to many migration researchers, they are therefore left unconceptualized and uninvestigated. This one-sided notion of social research has been challenged by feminist theorists who have developed an epistemology for women. Most recently, feminist migration researchers have begun to conceptualize the relations of race, ethnicity, class, gender and region, and have moved from location to political grounds of contestation.

This issue of *Refuge* provides a space for the voices of immigrant and refugee women from diverse race, class, culture and nation to be heard. The papers presented here represent the

views of academic researchers, as well as NGOs and practitioners working on issues involving refugee and immigrant women. They argue for legislative changes, improvement of immigrant and refugee women's conditions, and protection for their legal, social, physical and sexual rights. These articles include theoretical dis-

cussions, empirical research, and policy issues with a focus on the social, economic, legal and political consequences for refugee and immigrant women. They demonstrate that immigrant and refugee women as activists, workers, mothers, and daughters are actors who labour and toil alongside their male counterparts, who struggle

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Centre for Refugee Studies
Suite 322, York Lanes
York University
4700 Keele Street, North York
Ontario, Canada M3J 1P3
Phone: (416) 736-3663
Fax: (416) 736-3637
Email: refuge@yorku.ca

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Editor

MICHAEL LANPHER

Guest Editor

GUIDA MAN

Assistant Editors

GAIL MCCABE

MARK SWINDER

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and fight for their rights, and reconstruct their identities in the new country.

It is undeniable that increasingly, feminist migration researchers has been using feminist conceptualization in conducting their research, but in what ways can or could feminist theories contribute to the understanding of contemporary international migration? And how do questions of gender, race and nation intersect? These are questions posed by Aina Tollefsen Altamirano in her theoretical paper which explores and evaluates the actual and potential contribution of some recent developments within feminist geography to migration research. Indeed, her questions are echoed by other feminist researchers in international migration who find conventional theory and methodology inadequate in addressing the concerns of immigrant and refugee women. Using Linda McDowell's work as a model, Altamirano distinguishes three main currents of thought within feminist geography: feminist empiricism, feminist standpoint theory, and post-rational feminism. While migration research can benefit from the different traditions in feminist theory, Altamirano proposes to eliminate essentialism from these perspectives.

Equally vital for research on refugee and immigrant women are papers which address policy issues. Despite the fact that half of the refugees in the world are women, it is not until recently that the international community recognizes that refugee women have special needs because of their gender. Adopting a feminist empiricist perspective, Keiko Osaki utilizes the UNHCR's 1997 newly collected gender specific cross-national statistical data on refugees to emphasize the increasing feminization of refugees.

The United Nations, in a series of meetings, recognized that women and children have particular needs, that some women may be considered a "particular social group" within the definition of a Convention refugee, that the civil, political, economic, social and cultural rights of refugee and

displaced women and children should be reaffirmed and backed by laws, policies and programmes, and that women and girls are vulnerable to gender-based discrimination and gender specific violence and exploitation. To meet the special needs of women, Osaki recommended program interventions in the areas of legal protection; protection from physical violence; sexual exploitation and prostitution; and better access to food, health services, education and economic opportunities.

The issue of women as a "particular social group" is further taken up by two academics in law in the following two papers. Stephanie Kuttner's paper discusses Canada's role in the emergence of an international norm accepting gender-related persecution as a basis for refugee status. She examines the causal connections in the interplay between "bottom-up" factors of domestic interest groups and societal norms; "top-down" factors of the international constitutions of law, conferencing, and the United Nations system; and "transnational" factors of principled issue networks and experts operating within the international refugee system.

Citing legal case studies, Elizabeth Adjin-Tettey maintains that women constitute a particular social group both because of an innate characteristic that they share (gender), and because of their susceptibility to serious human rights violations. Adjin-Tettey further argues that whereas all women are part of a social group, only those who are likely to be victimized or marginalized because of their gender will be eligible for Convention refugee status as they will be the only persons within the category who are genuinely at risk of persecution.

The consequences of policy changes in access to family reunion, and the gendered implications for women entering European countries as family migrants, and as applicants to sponsor family members is addressed by Eleonore Kofman and Rosemary Sales. The authors demystify the notion that primary migration in Europe has

ended. In fact, one of the most significant social changes in Europe in the last twenty years has been an increasing feminization of immigration flows into Europe through family reunion and the independent migration of women. As a consequence of the European integration, restrictive immigration changes in access to family reunion, as well as policies to limit the social rights of immigrants and refugees within Europe have been implemented by many states. This occurs in the 1990s, at a time when the number of asylum seekers were increasing. As a result, there has been a drastic reduction in the number of asylum seekers gaining refugee status. Hence, other forms of temporary protection on humanitarian grounds has been developed. Kofman and Sales propose legislative changes which would recognize the contribution of immigrants to economic, social, political and cultural life in European societies, and which would be based on securing rights as well as controlling immigration flows.

An example of the consequence of restrictive immigration changes in Europe is best illustrated by Cathie Lloyd's paper on the *sanspapiers* movement in France. The movement arose in the context of draconian Pasqua laws, resulting in many West African immigrants falling into the category of "illegal" even though they had entered France legally. Through their own women's organization, West African women, led by activists such as Madjiguène Cissé, participated and played a prominent role in the movement. Many of the women had been left alone in France because their husbands had been deported, and they now faced destitution and isolation, unable to speak the French language fluently. The *sanspapiers* and their supporters challenged the "closed frontiers" consensus on immigration, and argued for a more realistic approach to accepting immigration in France. The dispute has succeeded in voicing the personal experiences of women and men who lost their legal status as a result of immigration controls.

While many migration researchers illuminate the lives of refugee and immigrant women by voicing the trials and tribulations for these women, other studies validate and empower the women's experience by letting them voice their own experience. The last paper of this issue employs the latter method. In utilizing narrative identity approach, Eija Asikainen is successful in giving voice to Hajra, an adolescent Bosnian girl in exile in Finland. The story of Hajra serves as an interpretation of the events in Yugoslavia, and as a process through which an adolescent became first a refugee, and who then became aware of her own and of other people's ethnicity. Hajra was endowed with the identity of a refugee on the day she had to leave her home, and with the identity of a Bosnian girl on the day she came to Finland. She told her own story in changing situations and contexts. She used these stories to organize her experiences, to produce meaning for the events, and to construct her own identity.

Although this issue is devoted specifically to highlight immigrant and refugee women from an international perspective, I want to emphasize that the concerns of immigrant and refugee women could not possibly be adequately addressed in only one issue of *Refuge*. I was overwhelmed by the response and enthusiasm I received as demonstrated by the large number of submissions. Regrettably, I could not fit all the papers in this issue due to space limitations. However, I am optimistic that immigrant and refugee women's concerns will continue to be reflected in future journal issues as you continue to support and inform us of their concerns in your submissions.

Guida Man, Ph.D., was a post-doctoral research fellow at the Centre for Refugee Studies, York University, from September 1996 to September 1997. She teaches at Ryerson Polytechnic University, and is a visiting research associate at the University of Toronto/York University Joint Centre for Asia Pacific Studies, York University, and an affiliate of the Centre of Excellence for Research on Immigration and Settlement, York University.

Asylum: A Moral Dilemma

By W. Gunther Plaut

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Every year the refugee landscape changes, but only in that more problems are added, fewer are solved, and all become constantly more urgent. Fuelled by the explosion of the world's population, the quest for asylum is one of the most pressing problems of our age. Refugee-receiving nations—located frequently, but by no means exclusively, in the Western world—have to respond to masses of humanity searching for new livable homes. Human compassion for these refugees can be found everywhere, but so can xenophobia and the desire to preserve one's nation, economic well being, and cultural integrity. The clash between these impulses represents one of the great dilemmas of our time and is the subject of Plaut's study. In exploring it, he provides a far-ranging inquiry into the human condition.

The book presents political, ethnic, philosophical, religious, and sociological arguments, and deals with some of the most troublesome and heartbreaking conflicts in the news.

Contents: *The Issues; Questions Without Answers; Definitions; Religion, Natural Law, and Hospitality; A Look at History; Some Ethical Questions; Through the Lens of Sociobiology; Community and Individual; Contended Rights: To Leave, Return, Remain.*

The Practice; Refugees in Africa; Four Asian Lands; Glimpses of Europe and Central America; The North American Experience; The Sanctuary Movement; A Final Look; Bibliography; Index.

Asylum—A Moral Dilemma is simultaneously published in the United States by Praeger Publishers, and in Canada by York Lanes Press.

Feminist Theories and Migration Research—Making Sense in the Data Feast?

Aina Tollefsen Altamirano

Abstract

Conceptual and theoretical issues are increasingly highlighted in research on international migration. This article looks at some recent developments within feminist geography and questions whether feminist theories can contribute to the understanding of international migration. Three main traditions are identified within feminist geography found in recent work on gender and migration. The conclusion is that migration research can benefit from feminist empiricism through detailed documentation and measurement of gendered migration streams, while the essentialism of anti-rationalist feminism could lead to over-generalizations in terms of male and female mobility. Post-rational feminist approaches to migration research could contribute to studies of subgroups of migrants (both women and men) and their relational position in different contexts.

Précis

Les questions conceptuelles et théoriques sont de plus en plus mises en relief dans la recherche sur la migration internationale. Le présent article décrit un certain nombre de développements récents en géographie féministe et soulève la question de savoir si les théories féministes peuvent apporter une contribution à la compréhension du phénomène de la migration internationale. Trois traditions de géographie féministe sont principalement identifiées dans le cadre des travaux récents sur migration et sexage. La conclusion est que les recherches sur la migration ont à bénéficier de l'empirisme féministe par le biais d'une documentation détaillée et quantifiée concernant les courants migratoires

fondés sur le sexage. Corollairement l'essentialisme du féminisme anti-rationaliste peut entraîner des généralisations abusives en ce qui concerne la mobilité masculine et féminine. Les approches procédant du féminisme post-rational en matière de recherche migratoire peuvent contribuer à l'étude des sous-groupes de migrants (hommes et femmes) et de leur dispositif relationnel dans des contextes distincts.

A few years ago, the British geographer Tony Champion wrote that the challenge to migration research within the years to come would be to derive something sensible from the increasing mass of migration data available—in other words, the main problem would not be the lack of data but rather the interpretation and analysis of these data (Champion 1992). Although he referred mainly to research in the U.K. context, the point that conceptual and theoretical issues need to be more highlighted is relevant in a wider context as well. Many other migration researchers have commented on the general weak position of theories on migration—being either too general (i.e., laws of migration) or too specific and fragmentary (close to ideographic descriptions of unique contexts). Many would perhaps agree that today, there is a search for theories and concepts focusing on certain more general processes or mechanisms but which can have different outcomes and be understood differently from context to context.

It may also be, as Champion suggests, that instead of analyzing migration as a single phenomenon, it could be more useful to study subgroups of migration streams “essentially separately” as they reflect an increasing heterogeneity of society and a stronger spatial polarization. The focus would then be on the relation between migra-

tion and the societal context rather than migration *per se*.

Against this background, the article evaluates the actual and potential contribution of some recent developments within feminist geography to migration research. In what way can or could feminist theories contribute to the understanding of contemporary international migration? In short, can feminist theories make any sense in the (presumed) data feast within migration research?

To consider these questions I will first outline some central research traditions within feminist geography, following the works of Linda McDowell (McDowell 1993a, 1993b). I then move on to look at how some researchers have integrated a gender perspective in migration research—I cite three main works to illustrate different approaches (Zlotnik 1995; Chant 1992; and Buijs 1993). Finally, I conclude with a short discussion about what I see as the importance and relevance of these contributions.

Feminist Geography—“A Diverse and Pluralistic Enterprise”

Linda McDowell wrote two articles in 1993 where she reviewed feminist geography during the last decade. She distinguished three main currents of thought within feminist geography, related to the developments within feminist scholarship in general. These currents do to a certain extent follow a chronological order, but they are not as clear-cut as they may appear at first sight. Instead they often overlap and run parallel in time.

The first current of thought that she identifies is feminist empiricism, which was a dominant geographical project during the 1980s. The second current is feminist standpoint theory, which developed and was influential during the mid- and late 1980s. The

Aina Tollefsen Altamirano is a Ph.D. candidate in the Department of Social and Economic Geography, Umeå University, Umeå, Sweden.

most recent current of thought is what she calls post-rational feminism, which is part of a recent skepticism about the centrality of gender as an analytical category in relation to other categories.

Feminist Empiricism

A large number of studies were made during the 1980s in order to demonstrate empirically the situation of women in different geographical contexts. Consistent inadequacies in statistical data and an absence of detailed empirical studies motivated a great effort to map and "make visible" women in the social sciences, including human geography.

The main focus of most of these studies was on gender-based divisions of labour. They investigated the segmentation of the labour market, regional differences in employment structures, the urban environment from a gender perspective, the production/reproduction divide and comparisons of the situations of women in different cultural and geographical contexts. Basically, these studies could be seen as part of a rationalist project of exposing the unfairness of the exclusion and discrimination of women, so that these errors and inequalities could be corrected. A kind of "add women and stir" method, as McDowell puts it—a belief in that when correctly documented and described, rational human beings would in time eliminate the irrational discrimination of women. This optimism was soon frustrated, as nothing was corrected automatically so as time went by, more theoretical questions about power structures and the reproduction of the inequalities had to be asked.

Feminist Standpoint Theory

The rationalist position in feminist empiricism was questioned by anti-rationalist currents in the mid-1980s. Radical feminism and the influential school of ecofeminism became established through a number of publications. McDowell (1993b, 306) describes the trend:

Rather than seeing discrimination on the basis of gender as unfair, rooted in rational humanist notions of rights, obligations and justice, work in this perspective celebrated the difference and attempts to reverse rather than abolish the traditional allocation of superiority to all that is masculine.

In this perspective, all that is "feminine" is revalorized, and the essential category of "being a woman" is highlighted. Not all of the studies within standpoint feminism are essentialist, but they do focus on gender as the central analytical category. More recently, there is an orientation towards analyzing gender symbolisms and representation, and how these are reproduced. Many of these studies are sensitive to differences between women, but they still consider gender to be the fundamental social category.

Post-Rational Feminism

The most recent perspective within feminist geography identified by McDowell is what she calls post-rational feminism. Here there is a questioning of the centrality of gender itself in relation to other differences. Is it really so—which has been assumed by most feminist geographers—that some differences (gender) are more important than others?

For some writers, gender is no more and perhaps not even as basic as poverty, class, ethnicity, race, sexual identity, and age, in the lives of women who feel less divided from men as a group than, for example, white or bourgeois or Anglo or heterosexual men and women. The argument here is that a notion of gender as basic merely serves to reify, rather than critically contest, transform and escape the imposed myth of difference, while it ignores other critical and as yet subjugated arenas of difference. (Di Stefano 1990, 65)

One of the main influences on feminist geography within this perspective has come from post-colonial work in a "third world" context. Chandra Talpade Mohanty is cited by McDowell as an influential researcher

who has raised important questions for human geographers:

Who/what is the third world? Where is the third world? Is it spatially contiguous or discontinuous? Do third world women make up any kind of constituency? On what basis? How do questions of gender, race and nation intersect? (McDowell 1993b, 313)

What Mohanty does is to break away from essentialist notions to suggest "political rather than biological or locational grounds for alliance" (ibid., 313). Thus, in her view, gender is but one of the relations to take into consideration in the postcolonial situation. The spatial contexts must not be seen as fixed or bounded; place is "neither a categorical nor territorial concept, but is defined in *relational* terms, that is places are constructed from alliances and oppositional struggles to lines of power" (ibid., 313). This view can be of special relevance to migration research, as transnational migrations constitute a fundamental aspect of the postcolonial situation.

As we can understand from the above, feminist geography has during the last decade grown to become a complex and varied field of research, and despite its fragmentation, it can be concluded that there is a movement from mostly empirical studies to more theoretical and conceptual approaches. At the same time, all these perspectives exist simultaneously and may be emphasized in different ways depending on research focus. My next step is now to relate these developments to migration research.

International Migration and Gender

The introduction of gender analyses in migration research within human geography dates back to the mid-1980s. Skeldon (1995) points out that migration research using biographical approach was primarily a "male" perspective until the second half of the 1980s. Chant and Radcliffe (1992) note that although gender imbalances in migration have been highlighted earlier in migration research within de-

veloping countries, there have been very few attempts to analyze these differences systematically. Their own work must be considered pioneering in this area (see e.g., Radcliffe 1990; Chant 1992). A number of other migration researchers point out both what has been termed the increasing "feminization" of international migration, and the need for both empirical and theoretical work in this field (Hugo 1995; Castles and Miller 1993).

A contribution to what could be called feminist empiricism is the work of Hania Zlotnik (1995). The main focus of her work is on how the volumes of male and female migrants have changed in international migration over the last decades. In general, there has been a consensus on the fact that there is an increasing feminization of migration in the world, especially since the introduction of restrictions on labour migration in Europe in 1973–74. Zlotnik challenges this view and demonstrates that in terms of gross immigration and emigration, there is no feminization. Instead, only in net migration do women outnumber men, as women participate less in return migration than men do. She is able to show that there are important differences in female and male migration to and from the United States, the Federal Republic of Germany, Belgium and Great Britain, but the causes of these differences are not analyzed. Her focus is instead on the quantification and characterization of female migration internationally. She looks at population statistics on female and male migration and argues that "numbers, origins and the timing of migration matter." Her point is that a first step for the understanding of the causes and consequences of international migration in general is a good documentation of migration by sex, and on the different characteristics of male and female migrants in international statistics. She might not agree with Champion on the existence of a data feast as far as female migration is concerned—her complaint is that data is far from sufficient for an adequate analysis. The fact that her statistics on female inter-

national migration are published in 1995 and not ten years ago, also shows that there are areas where further data are needed.

Gender-Selective Population Movements

The fact that it is possible to identify differences between how men and women migrate—within and between countries—and that women's and men's use of time-space is restricted differentially in many contexts seems to be the obvious argument for introducing gender analyses in migration research. Chant and Radcliffe (1992) see the analysis of gender-selectivity in migration as fundamental for the understanding of economic, social and demographic change in the developing world:

Where men and women are, if they live together or apart, whether their movement to other parts of their countries or overseas is equally or differentially constrained through economic and cultural aspects of the societies to which they belong, are factors vitally important in the interpretation of development at both local and national levels in Third World countries. (ibid., 1)

The book collects essays in order to compare, interpret and theorize gender-selective migration in Latin America, the Caribbean, Africa and Asia. Chant concludes in the last chapter that there are certain similarities in the way gender-selectivity works across the different contexts. The following generalizations are made:

1. Men are more mobile than women, even in cases where female mobility is very high.
2. The temporary or long absence of migrant men from domestic space means that women obtain a certain autonomy, although their access to resources often is limited.
3. Men migrate "independently" more than women do.
4. The migration of men is more often linked to direct access to employment than women's migration.
5. The range of destinations is more varied and the distances longer in

men's migration—internally as well as internationally.

6. Women have fewer job opportunities at destination labour markets; they are mostly limited to domestic services and commerce.
7. The age structures of migrants vary between men and women; female migrants are young and many of them stop migrating when they marry; male migrants are also predominantly young, but they continue to a larger extent to migrate at later stages in the life cycle.
8. Men send remittances back to the "home areas" while women keep stronger personal, economic and social ties with relatives in areas of origin.

The most central factor in the shaping of gender-selective migration is, according to Chant, the organization and divisions of reproductive and productive labour at the household level. The fact that women are more involved in reproductive work and have more responsibilities can explain much of their restricted mobility opportunities in relation to men's. The way these gender-based divisions of labour (in both reproduction and production) vary between contexts also give insights as to why the levels of female mobility vary more over time and space than the levels of male mobility. In some contexts women participate more in agriculture; in others they have no access to waged agricultural work; in some contexts women are expected to work for cash; in others they are restricted from doing so. So the gender-based division of labour together with different social and cultural constructions of female and male identities affect the propensity and possibilities to migrate.

Migration, Gender, and Other "Differences"

The third work I will cite develops the question of gender identity formation and change even further. It is the focus of many of the studies collected in the book *Migrant Women—Crossing Boundaries and Changing Identities* edited by Gina Buijs (1993). In her intro-

duction, Buijs points out the purpose of the collection: to investigate the dynamics of change in gender relations which have been brought about by migrancy. So it is considered that the very experiences of migration are crucial as to how gender relations develop and change over time and space. This collection of essays can be seen as part of what McDowell classified as a recent development within anti-rationalist feminism, where gender symbolisms and the reproduction of gender relations are studied, here in relation to migration. But some of the contributions are examples of the post-rationalist critique of the centrality of gender in relation to other "differences." An example of the latter is the chapter by Parminder Bhachu (1993) called "Identities Constructed and Reconstructed: Representations of Asian Women in Britain." Bhachu points out the problems with ethnocentrism and the lack of understanding of the dimensions of class and race in her study of Asian and Black women in Britain. She shows that even though ethnicity is important to migrant women, so also is their "regional and class locations:"

London Asian women identify themselves differently from those in Northern Ireland and Scotland and according to the class positions that they occupy. This is not because there is no common 'ethnic' cultural base, but because younger Asian women emerge out of the particular localities in which they have been raised and from the particular class cultures to which they have been socialised. (ibid., 103)

But what about gender in her analysis? She is keen to demonstrate the differences between women, especially in order to counter the stereotype of Asian women as "passive/docile/conflicted/dominated by oppressive traditions and men." But she does not exclude gender—instead, gender, ethnicity, region and class are analyzed together. For instance, she analyses the fact that there are greater differences between indigenous white and black men in types of jobs and earnings than there are between indigenous white

and black women. Afro-Caribbean and Sikh women participate to a higher degree in the labour market in full-time employment than do indigenous white women, and they share the same proportion in professional, employer or management sectors as white women, while men's positions in the labour market are more unequal in terms of ethnicity and class. So gender plays a part, but it is not given priority in relation to ethnicity, region and class.

Concluding Discussion

Do feminist theories contribute to the understanding of international migration? Can a gender perspective in migration research be of help in the search for new conceptual and theoretical insights? I would answer that so far, rather few attempts have been made to fully integrate feminist theory in migration research, but that the existing work certainly brings new and useful knowledge to the research field. The influences from the diverse traditions within feminist geography are only beginning to show. Firstly, feminist empiricism could contribute importantly to the detailed documentation and measurement of gendered migration streams—statistical data are still lacking, as pointed out by Zlotnik (1995). Secondly, the work collected in the book edited by Chant (1992) can be seen as an ambitious attempt to analyze systematically the dynamics of gendered mobilities. In most of the contexts studied, there are clear differences between male and female mobilities—so the focus on gender relations seems to be most appropriate. Certain generalities in these differences are identified (as listed above). A little caution against over-generalizations could perhaps be motivated, and Chant (1992) does take into account differences within male groups and female groups, especially concerning age. She points to the organization of reproductive and productive work at the household level as crucial for explaining these differences. A further analytical step from here could be to relate these findings to recent theoretic

cal work on different forms of patriarchy (Duncan 1994) and on gender contracts (Hirdmann 1988).

Thirdly, and maybe especially significant for migration research is the recent questioning within feminist theory of the assumption that gender always should have priority over class, race or sexual identity. Post-colonial work on immigrant women in Western societies and on the relations between "third world" contexts and the West show that much feminist research has been ethnocentric in both problem definitions and concepts. For instance, as Ålund (1991, 63) points out, "the 'new feminism' tends uncritically to apply the traditional 'modernization' paradigm of Western perceptions of the Third World—an essentially ethnocentric and neo-colonialist ideology." In migration research, this critique seems specifically relevant as much of the central concepts and theories on migration reflect the experiences of Western societies, and in many cases do not integrate the findings from the vast body of existing research on migration in "third world" contexts. The new orientations do not mean an abandonment of gender, but rather a theoretical maturity that allows the incorporation of other subordinations and power structures into the analysis (McDowell 1993a, 158). In the field of international migration it could lead to research focusing on subgroups of migrants, where their relational position in different spatial contexts are exposed, while at the same time all totalizing categories must be avoided. The problematic essentialism developed in anti-rationalist feminism should not be reproduced. Migration research can benefit from the different traditions in feminist theory, but must leave essentialism behind. ■

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Legitimate and Illegitimate Discrimination: New Issues in Migration

Edited by Howard Adelman

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Freedom of movement: If the members of a state are forced to flee, the legitimacy of that government is questionable. On the other hand, if members cannot or must leave, again the government is not democratically legitimate.

Immigration control: While limiting access and determining who may or may not become members of a sovereign state remains a legitimate prerogative of the state, the criteria, rules and processes for doing so must be compatible with its character as a democratic state.

Legitimate and Illegitimate Discrimination: New Issues in Migration, edited by Professor Howard Adelman, deals with the question of legitimacy with cases studies from the Developing World, Europe, Australia, the United States, and Canada.

CONTRIBUTORS:

Rainer Bauböck, Howard Adelman, Gaim Kibreab, A. Essuman-Johnson, Grant M. Farr, Lawrence Lam, Oscar Schiappa-Pietra, Tomas Hammar, Frédéric Tiberghien (in French), Lois Foster, and Arthur C. Helton.

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Breaking Ground:

The 1956 Hungarian Immigration to Canada

Edited by Robert H. Keyserlingk

Toronto: York Lanes Press, 1993, ISBN 1-55014-232-1, 117 pages, \$6.99

This book is a collection of personal and archival-based memories on the selection, transport and settlement of about 40,000 Hungarian refugees in Canada in one year. It is a source of primary record as well as scholarly reflection on one of the most significant refugee movements to Canada after World War II—the 1956 Hungarian refugee movement.

Based on papers that were presented at a 1990 conference, the authors touch on the unique political, administrative and settlement features of this movement. The resulting work, edited by Professor Keyserlingk, is a unique mix of personal reminiscences and academic scholarship.

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When Refugees are Women: Emergence of the Issue on the International Agenda

Keiko Osaki

Abstract

Using the latest refugee statistics available from the United Nations High Commissioner for Refugees (UNHCR), the author examines, first, the presence of women in refugee populations. Second, she chronologically reviews the efforts of the United Nations and United Nations agencies to heighten awareness regarding the issue, and to resolve specific problems that refugee women face. Lastly, the special needs for women refugees are identified with implications for possible program interventions.

Précis

A l'aide des plus récentes statistiques sur les réfugiés émises par le Haut Commissaire des Nations Unies sur les réfugiés, l'auteure du présent article examine d'abord la présence féminine dans la population de réfugiés. Ensuite elle présente chronologiquement les tentatives des Nations Unies et de leurs diverses agences pour accroître la sensibilisation sur la question, et résoudre les problèmes particuliers auxquels les femmes réfugiées font face. Finalement, on procède à une identification des besoins spéciaux des femmes réfugiées ainsi que des implications sur les programmes d'intervention possibles.

Although refugee statistics remain highly problematic in terms of availability and quality, most recent data attest that women constitute over half of the world refugee population. In refugee situations, however, these

women tend to bear a disproportionate share of hardship. They become particularly vulnerable to various forms of discrimination, exploitation and abuse.

Unfortunately, the issue of refugee women had received scant attention over the years. It is only recently that the international community has begun to recognize that refugee women have special needs because of their gender. A consensus has emerged that programs regarding protection and assistance for refugees must accommodate these particular needs. These programs must respect their dignity and urge their participation in planning and implementing programs.

The Presence of Women in Refugee Population: Statistical Evidence

Accurate and precise statistical information is an important tool for planning and formulating refugee assistance programs. But data that would accurately reflect the situation of refugee women are extremely difficult to obtain. Given the fluid nature of refugee populations, their numbers may fluctuate markedly from one point in time to another. As refugees often move in and out the camps without notifying local authorities, statistics from refuge sites remain to be, at best, rough approximations in many countries. Even if the host country could furnish refugee statistics, in many cases no classification is available by basic demographic characteristics such as age and sex.

In response to the call for improvements in information on refugee women, in 1994 the UNHCR for the first time compiled gender specific information on refugees in a cross-national manner and published this information in the Statistical Overview. At that time, the report provided a breakdown of refugee population by

sex for only 37 countries of asylum (UNHCR 1994). Slow, but steady improvements have been observed over time in terms of the availability of gender-specific refugee statistics. By 1996, 67 countries could furnish the information on refugee population classified by sex, and a refugee population of 4.7 million persons were reported (UNHCR 1997). These data represent about 31 percent of the world refugee population which was estimated at 15.4 million at the end of 1996.

Table 1 presents the latest refugee statistics broken down by sex and age, and Figure 1 graphically displays the proportion of women in a refugee population in a country or area of asylum, according to the geographical region. Assuming that these statistics represent the gender distribution of the refugee population worldwide, women appear to constitute 53 percent of the world refugee population (see Table 1). That is to say, over half of the refugees in the world were women. Figure 1 also illustrates that, regardless of geographical region, women refugee are as numerous as male refugees. Women make up 40 to 60 percent of the total refugee population in 50 out of 67 countries or areas examined.

In some countries, the presence of women is noticeably high. The proportion of women exceeded more than three-fifths of the total in countries such as Libya (70%), Uganda (65%), Niger (64%), Gambia (62%), Turkmenistan (60%), and Mauritania (60%), in order of magnitude. On the other end of the scale, low presence of women in the refugee population was characteristic of countries such as Cuba (16%), Greece (20%), Nepal (21%), Saudi Arabia (25%), Gabon (27%) and Malaysia (28%). Women are often more numerous than men in refugee populations when men are

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Keiko Osaki is a population affairs officer at the Population Division of the United Nations. Her research is concerned with mechanisms of international population mobility from a gender perspective.

The views expressed herein are those of the author and should not be interpreted as necessarily representing those of the United Nations.

Table 1: Refugee Population and the Percent Distribution of Female Refugees in Country of Asylum, as of the End of 1996

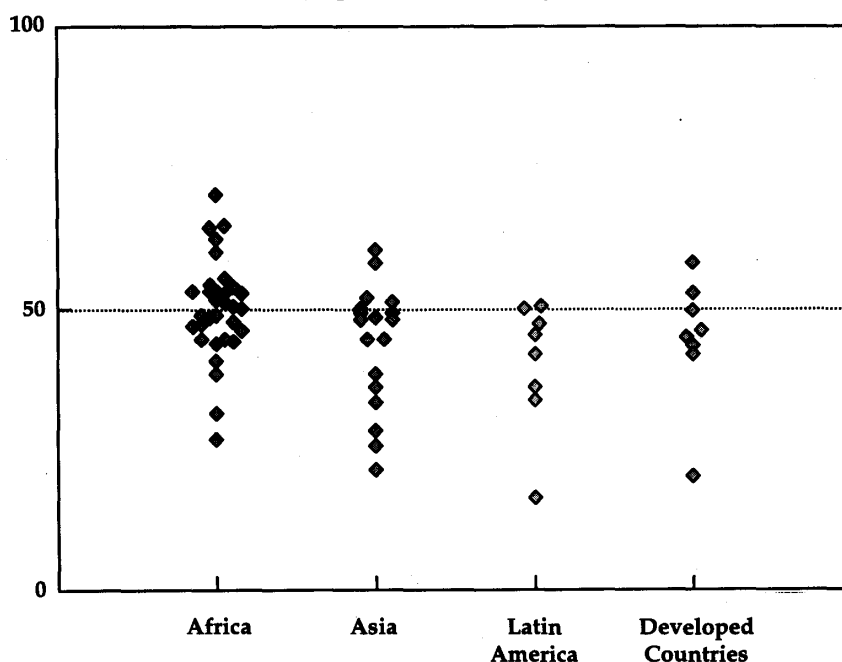
Country of asylum	Total number of refugees	Number of refugees whose age and sex were identified	Percentage of			
			Women all ages	Women under 18 years old	Women 18–59 years old	Women and children under 18 years
Libya	7,747	3,409	70	15	40	83
Uganda	264,294	264,179	65	31	31	84
Niger	25,845	4,075	64	45	19	78
Gambia	6,924	1,893	62	28	31	75
Turkmenistan	15,580	680	60	40	20	82
Mauritania	15,880	15,872	60	30	19	86
Croatia	165,395	165,395	58	14	30	72
Pakistan	1,202,703	1,202,703	58	27	31	80
Democratic Republic of Congo ^a	675,973	983	55	22	30	76
Jordan	874	840	55	21	32	79
Togo	12,589	12,387	54	29	24	83
Cameroon	46,407	2,583	54	19	34	73
Cote d'Ivoire	327,696	195,482	53	36	17	87
Congo	20,451	5,301	53	31	21	79
Burundi	981	606	53	23	29	70
Yugoslavia	563,215	566,275	53	—	—	—
Senegal	65,044	64,030	53	26	24	79
Sierra Leone	13,532	11,779	52	31	21	81
Yemen	53,546	27,371	52	26	24	74
Guinea-Bissau	15,401	15,401	52	25	26	79
Botswana	214	214	51	34	17	65
Bangladesh	30,692	30,625	51	30	20	81
Guinea	663,854	663,838	50	25	24	78
Chile	313	175	50	34	11	71
Afghanistan	18,775	17,936	50	20	25	70
Benin	5,960	5,419	50	19	30	67
Mexico	34,569	34,569	50	—	—	—
Macedonia	5,089	3,989	49	17	27	69
India	233,370	82,054	49	6	6	55
China	290,100	290,045	49	20	29	68
Angola	9,381	9,341	49	25	22	81
Mali	18,234	17,495	49	—	—	—
Turkey	8,166	3,548	48	16	28	65
Ethiopia	390,528	349,449	48	25	19	76

Country of asylum	Total number of refugees	Number of refugees whose age and sex were identified	Percentage of			Women and children under 18 years
			Women all ages	Women under 18 years old	Women 18-59 years old	
Iraq	112,957	38,959	48	25	21	76
Iran	2,030,359	86,151	48	28	19	78
Nigeria	8,486	6,284	48	22	25	69
Kenya	223,640	153,109	47	24	23	73
Peru	663	246	47	4	32	55
Burkina Faso	28,381	28,024	47	21	23	74
Tanzania	498,732	89,542	46	25	21	73
Russian Federation	205,458	3,710	46	22	20	69
Ecuador	211	93	45	17	27	68
France	151,329	123,579	45	—	—	—
Tajikistan	1,166	339	45	10	32	57
Syria	27,759	3,099	44	25	15	71
Namibia	2,204	2,027	44	22	21	63
Eritrea	2,108	1,982	44	19	24	66
Central African Republic	36,564	34,961	44	24	19	74
Somalia	700	569	44	17	27	61
Romania	269	51	43	18	24	63
Argentina	10,430	404	42	9	33	46
Belgium	36,060	36,080	42	—	—	—
Ghana	35,617	35,436	40	17	18	68
Hong,Kong (China)	6,875	1,345	38	12	26	51
Swaziland	575	347	38	24	14	63
Kuwait	3,831	3,720	36	12	21	50
Bolivia	698	473	36	11	25	48
Colombia	220	74	34	9	22	57
Lebanon	2,408	1,858	33	14	16	49
Mozambique	198	140	31	17	14	47
Malaysia	199	57	28	12	16	42
Gabon	798	236	27	14	13	38
Saudi,Arabia	9,852	9,852	25	15	9	41
Nepal	126,815	2,125	21	10	10	48
Greece	5,780	257	20	6	6	30
Cuba	1,703	1,577	16	0	16	21
Grand total	8,782,367	4,734,626	53	21	21	73

Source: United Nations High Commissioner for Refugees, 1996 Statistical Overview (Geneva, 1997).

^a The former Zaire.

Figure 1: Proportion of Women in Total Refugee Population by Geographical Region, Early 1997, (%)



Source: Table 1.

Continued from page 9

heavily involved in war or civil strife. On the other hand, as seen in the example of Cuba, the share of women in refugee population is likely to be small when the figure comprises predominantly of political refugees. In general, however, one should exercise caution in interpreting those data indicating the extremely high or low representation of women. Those figures tend to be generated from only a subset of the total refugee population and they may not represent the true sex distribution of the whole refugee population in a country. Indeed, as seen in the difference in the first and second columns of Table 1, countries such as Niger, Gambia, Turkmenistan, Malaysia, Gabon, Nepal, and Greece could not furnish the information on the sex and age of the vast majority of their refugee populations.

The age distribution of refugee women varies across countries of asy-

lum as seen in Table 1 which presents the information on the proportion of girls (under 18 years old), adult women (18–59 years old) and elderly women (60 years and over) in the refugee population. The proportion of girls in refugee population greatly varied from almost none in Cuba to a high of 45 percent in Niger. In many developing countries, refugee population comprised relatively high proportion of girl refugees, representing the population of high fertility countries. At the global level, the girl refugees constituted about a quarter or 26 percent of the total refugee population. Adult females are the equally significant component of refugee population. Approximately, one in every five refugees in the world was adult woman, while the level greatly differed from country to country. In contrast to girl and adult female refugees, the presence of elderly women in refugee population was

notably low, with the exception of few countries. Lastly, the data shown in the last column of the table confirmed the widely accepted view that women and children account for approximately 70 to 80 percent of the world refugees (as do men and children together).

Efforts of the United Nations and UN Agencies to Improve the Situation of Refugee Women

As well-acknowledged, the United Nations' effort to launch the United Nations Decade for Women: Equality, Development and Peace (1975–85) helped to bring women's issues to the forefront of world attention. The United Nations' first specific focus on refugee women goes back to its mid-decade meeting held in Copenhagen in 1980. Recognizing that women and children form the bulk of the refugee populations and have particular needs, the Copenhagen meeting ad-

dressed the responsibility of states to bring to the justice those who abuse refugee women and children and to take steps to prevent such abuses (United Nations 1995a). The UNHCR, in cooperation with other concerned UN agencies, was urged to establish programs necessary for dealing with the special needs of displaced and refugee women. Thus, the stimulus to shed light on the plight of refugee women arose in the context of advancement of women's status, not from efforts to find solutions to refugee or migration problems.

While the Copenhagen meeting opened the door to the issue of refugee women in the following years, it was the World Conference to Review and Appraise the Achievements of the UN Decade for Women held in Nairobi in 1985 that gave an impetus for strategic action. In the "Nairobi Forward Looking Strategies for the Advancement of Women," adopted at the end of the decade, the issue of refugee and displaced women and children was raised again. The international community was requested to continue to provide relief assistance as a humanitarian responsibility and to launch special relief programs, taking into account the needs of refugee women and children in countries of first asylum (United Nations 1995b).

By this time, interest in the issue of refugee women had increased within the UNHCR. In 1985, the Executive Committee of the UNHCR at its 36th session included the issue of refugee women on its agenda for the first time. The Conclusion No. 39 entitled "Refugee Women and International Protection," stressed the need for UNHCR and host government to give particular attention to the protection of refugee women. It was agreed that the standards of refugees defined in the existing international refugee instruments were rather general, applying equally to refugee women and refugee men, and did not take account of the special protection problems with which refugee women are confronted (Siemens 1988). The meeting was particularly important in recognizing that

women who face harsh and inhumane treatment for transgressing the social mores of their societies may be considered a "particular social group" within the definition of a Convention refugee.

In 1988, the Executive Committee of UNHCR adopted a conclusion entitled "Refugee Women," which elaborated further on the special vulnerability of refugee women and the particular problems that they face. It also underlined the importance of the full participation of women in refugee assistance programs as agents as well as beneficiaries of programs on their behalf. Within the same year, UNHCR established a Steering Committee on Refugee Women in order to define, oversee the assessment, and strengthen existing policies and programs in favour of refugee women. The integration of gender factors into the overall design of a refugee assistance program was also encouraged in the People Oriented Planning Training Programme (POP), the special staff training program that UNHCR launched in 1989.

In July 1990, in order to improve the UN system's responsiveness to the needs of refugee women, the Division for the Advancement of Women of the UN organized the Expert Group Meeting on Refugee and Displaced Women and Children, involving UNHCR, UNIFEM, UNICEF and other relevant organization and various NGOs. The Expert Group stressed that the civil, political, economic, social and cultural rights of refugee and displaced women and children should be reaffirmed and backed by laws, policies and programs (United Nations 1991). Among other recommendations, the Group urged for the improvement of assistance for refugee women in the areas of health, education and employment in both short and long-term. The Commission of the Status of Women at its thirty-fifth session adopted many of the Expert Group's recommendations.

Providing refugee women with better protection is not just a question of policy. It also depends largely on the attitude of staff members who actually offer it—most importantly field officers and representatives. In 1991,

UNHCR issued *Guideline on the Protection of Refugee Women* to help the staff of UNHCR and its implementing partners to identify the specific protection issues, problems and risks that refugee women face (UNHCR 1991). Recognizing that prevention is preferable to cure, the guidelines point to needs for refugee women's safety and well-being and suggest various measures to be taken to improve the protection of refugee women.

The issue of refugee women also cannot be isolated from that of human rights. In response to the calls from women's organizations around the world, the issue of women's rights was chosen as a major theme of the World Conference on Human Rights held in Vienna in 1993. At the Conference, violations of women's rights in situations of armed conflict were considered as humiliations to the most fundamental principles of internationally recognized human rights and humanitarian laws. The report adopted at the Conference, in its specific section on refugee and displaced women, stress that "in addition to the fears and problems which they share in common with all refugees, women and girls are vulnerable to gender-based discrimination and gender-specific violence and exploitation."

Subsequent events in the former Yugoslavia, Somalia and Rwanda in the early 1990s have renewed attention to the needs to prevent and respond to sexual violence against refugees, especially refugee women. Based on detailed recommendations by field workers experienced with the rape and piracy attacks on refugees, UNHCR developed another set of action-oriented guidelines for preventing and responding to sexual violence in 1995 (UNHCR 1995). It aimed to provide refugee workers with practical advice on the medical, psychological and legal ramifications of sexual violence. It was widely distributed not only within UNHCR, but also to non-governmental organizations and other field offices.

In addition to the issues of sexual violence, the issue of the provision of reproductive health in the process of

refugee assistance have received growing attention in recent years. The International Conference on Population and Development, held in Cairo in 1994 declared in its "Programme of Action" that reproductive health care and family planning are vital human rights (United Nations 1995c). Recognizing the inadequacy or lack of such health services in field operations, relevant UN agencies have taken steps to make comprehensive reproductive health services a reality. UNHCR and UN Population Fund (UNFPA) have embarked on a series of joint activities to promote reproductive health in refugee situations and developing a practical guidance manual for the field.

Special Needs of Refugee Women

The review of refugee statistics in the first section of this paper attested that the number of refugee women is almost equal to that of male counterparts in a majority of countries. Refugee women, however, tend to bear a disproportionate share of the hardships. Many of the problems that refugee women face are by no means new nor unique: they are possibly a routine element of the persecution of women. But such traditional disadvantages of women are likely to be intensified in refugee situations.

A large number of refugee families experience loss of or separation from family members before or during the flight. Thus, family structure, which is usually a basis of protection, often changes dramatically in the chaos of emergencies. Many refugee women become widows or heads of household. Being stripped of the protection by husbands or supports of close kin, they are expected to take on new responsibilities for their family. But, typically with dependent children and no source of income, they are prone to be dependent on external support structures and vulnerable to exploitation. While refugee women themselves make efforts to adopt to an alien environment, they need protection and assistance that reflect their gender. Those specific needs of women include legal protection, physical protection, pro-

tection from sexual violation and better provision of services.

Legal Protection

Determination of refugee status is fundamental for protecting and assisting refugee population. Women, however, often face difficulties in establishing their own refugee status. The definition of "refugee" does not include persecution based on gender as a group for obtaining refugee status. In recent years, increased awareness of sexual violence against women has led a few countries to recognize gender-based claims for asylum. Furthermore, UNHCR encourages countries to consider female genital mutilation, forcible abortion or sterilization as grounds for refugee status. Currently, however, only Canada and the United States have integrated these elements into their refugee policies.

Even where the gender-based persecution falls into one of the defined area, women often experience difficulties in substantiating their claim. Many women are not willing to speak openly about the circumstances that caused them to flee, particularly when they have been sexually abused and the interviewers are men. It is therefore very important to use a variety of gender-sensitive techniques to obtain information from women during the status determination process (UNHCR 1995).

Refugee women need to have full understanding about their rights as refugees in order to maximize their entitlement. Refugee women, however, often experience difficulty in registering with the proper authorities and obtaining documentation of their refugee status and eligibility for assistance. In some situations, only male heads of household are given documentation and women are not routinely provided documents proving their legal status in the country of asylum. Other constraints include physical and logistic difficulties in reaching the authorities responsible for registration, particularly in cultures that do not permit women to interact with strangers.

Protection from Physical Violence

Violation of physical security is one of the most serious problems affecting refugee women. Physical abuse or violence against women are common in most societies. But the path of refugees enhance such dangers. There are an increasing number of reports that women have been victimized by pirates, border guards and soldiers with whom they come in contact during the flight. Unaccompanied refugee women and adolescent girl refugees are especially vulnerable to these forms of aggression as compared to those living under the protection of their families or communities.

Violence against women does not necessarily abate even after refugee women reach an asylum country. In many refugee camps, the facilities are often overcrowded and shared by many unrelated families, thereby increasing the potential for attacks and aggression. The enforced idleness, boredom frustration and despair that permeates many refugee camps are said to be grounds for such violence. Thus, the programs for refugee assistance must ensure great safety of refugee women. Special measures which need to be implemented include the provision of security patrols, appropriate medical services for victims, and emergency relocation whenever necessary. In some cases, the best solution for a woman who has been a victim of violence may be to remove her from the site of the violence.

Protection from Sexual Exploitation/Prostitution

Sexual violence and exploitation are shockingly frequent experiences for refugee women in all stages of the refugee situation—before and during flight, and in refugee camps. As recent atrocities in Bosnia and Herzegovina indicate, rape can be wielded as an instrument of militarized masculinized nationalism (Enloe 1995). The use of rape or other forms of sexual violence as a mean of terrorizing the community was evidenced also in Haiti, Myanmar, Rwanda, Somalia and Sri

Lanka in recent years. In a much large number of countries, border guards, security officers and military personnel routinely exploit their positions of power by demanding sex from refugee women or by forcing them into prostitution. At the same time, refugee women are also exposed to the risk of such aggression even from members of their own community in adverse situations, where established social norms and structures have been destroyed by sudden displacement. Those women who were victimized or who became prostitutes often experienced unwanted pregnancies and/or were infected with sexually transmitted diseases.

In order to combat such incidents and to provide victims with proper assistance, the problem of sexual violence and exploitation need to be addressed in a more explicit manner. The incidence of rape and other forms of sexual assaults are possibly more prevalent than actually reported or identified. Given the sensitive nature of the incidents, victimized women are reluctant to discuss the subject with the authorities, thereby preventing themselves from receiving assistance that they deserve. These women may also be unwilling to report such incidents because of the fear of retaliation or social stigma. Thus, the full scale of incidents remains to be revealed.

UNHCR (1995) suggests that one of the most effective ways to identify cases of sexual violence is to facilitate the establishment of women's groups and associations, thereby giving individual women a channel to report attacks. It is also important to give special priority to expand protection for refugee women by employing female protection officers in border units, as well as inside refugee camps and other places of settlement. With assured privacy and safety, culturally sensitive counseling should be offered to the refugee women who have been victims of sexual violence.

Better Access to Services

Refugee women have a wide range of service needs as do refugee men. Ac-

cess to food, health services, education and training and economic opportunities are among the key issues. Refugee programs thus need to ensure that refugee women have equal access to all these services and opportunities that they deserve.

Women tend to be passive recipients of food and other distributed items. As a result, they often suffer from inadequate diets. Malnourished women who are pregnant or lactating are unable to provide sufficient nutrition to their children. Such common problems in refugee camps partly arise from the fact that food distributors, including international organizations and host Governments, have an inadequate or limited understanding of the nutritional needs of refugee women and of the actual circumstances of women who cook and feed. It is therefore important to review the traditional male-dominated food distribution system and design a new distribution procedure by involving refugee women at the planning stage of distribution. Distributing food directly to women can also increase the likelihood that adequate food will reach the whole refugee population.

Similarly, increasing access of refugee women to basic health and medical services is important both to their own health and to that of their families, as women are the primary providers of health care to the family members. Refugee women are often exposed to various health risks often in overcrowding and poor sanitary conditions. For instance, water-borne disease are prevalent among refugee women who are the primary collectors of water. Women may also face particular mental health problems arising from loss of traditional support systems and difficulties in adjusting to life in alien environment where language, culture and living condition are all unfamiliar. Unfortunately, however, health services targeted at the needs of women are often limited, especially in a refugee emergency. The users of inpatient facilities tend to be dominated by men. The absence of female health workers or practitioners in refugee

communities have also been one of the major impediment to health care. In many situations, health facilities are located far away so that refugee women cannot reach them easily.

The virtual absence of the comprehensive reproductive health services also present another major threat to the health of refugee women. Refugee women, as do all other women, need basic care for safe birth, family planning information and services, the prevention and treatment of sexually transmitted diseases and HIV/AIDS, treatment of complications from female genital mutilation (FGM) and unsafe abortion, and other aspects of reproductive health. The introduction of these reproductive health care services into refugee settings remains a challenging task, especially when social and cultural barriers inhibit open discussion on the topic.

Lastly, access by refugees to education is generally poor. The situation is possibly worse for refugee girls whose rights tend to be totally neglected. Refugee girls' chances to attend schools is likely to be low as they are often required to assist with daily household chores—collecting water or firewood, washing, cooking and child care. The income-generation activities for refugee women are also equally limited, despite the fact that many refugee women are heads of households and must assume full economic responsibility. Availability of skill training or job opportunities are often either targeted at men or require minimum level of education or skills that many refugee women do not possess. Culture in the country of origin or destination may also constrain refugee women from working outside of the home.

Conclusion

Data that would accurately portray the plight of refugee women continue to be limited. But refugee statistics most recently available suggest that women constitute over half of the world refugee population. In refugee situations, these women suffer from exacerbated hardships, and their marginalized sta-

tus is likely to be reinforced. Based on an explicit recognition of this fact, the United Nations and United Nations agencies have focused its growing attention on the particular circumstances and special needs of women refugees. Countries of asylum have been urged to grant refugee status for those women who are under persecution based on gender. Refugee protection and assistance programs have been designed to accommodate special needs of refugee women, especially in terms of physical safety, protection from sexual violence, and provision of services.

It should be noted, however, that the program needs of refugee women may not be properly addressed by treating them as a simple target group. As shown in the first section of the paper, even basic demographic features of refugee population (e.g., age distribution) differ significantly across countries of asylum. It suggests that needs of refugee women are not all the same. As not all refugee women find themselves in identical circumstance, different protection and assistance strategies for refugee women may be necessary for each country of asylum. At the same time, there are also needs for complementary activities targeted at refugee men. One should be reminded that while refugee women have special needs that reflect their gender, the problems confronting refugee women are, in many case, also shared by their counterparts—refugee men.

Obviously, the adoption of the policy on refugee women by the UN and other UN agencies will contribute to solving only part of the problem. It is necessary that a wide range of institutions, including both government and non-governmental organizations,

adopt similar policies and strategies to seek durable solutions for the situation of refugee women. ■

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Gender-Related Persecution as a Basis for Refugee Status: The Emergence of an International Norm

Stephanie Kuttner

Abstract

In 1993, Canada was the first country to formally open its doors to refugees fleeing gender-related persecution. While the timing of Canada's move may have been motivated by domestic politics, it was also tied to an international process through which the human rights of women and gender-related persecution had become politically relevant issues. This article investigates the emergence of an international norm accepting gender-related persecution as a basis for refugee status. It begins with an overview of developments on the matter in other jurisdictions and reveals the role Canada played by taking a first step. The article also reveals the process through which domestic, transnational and international actors converged to put the issue of gender-related persecution on the international agenda.

Précis

En 1993, le Canada a été le premier pays à ouvrir officiellement ses frontières aux réfugiés fuyant une persécution fondée sur le sexe. Le moment choisi pour poser ce geste a certainement été motivé, de la part du Canada, par des considérations domestiques, mais il est aussi lié à un processus international à travers lequel les droits des femmes et la persécution fondée sur le sexe sont devenus des questions politiques d'importance. Le présent article étudie l'émergence d'une norme internationale reconnaissant la persécution fondée sur le sexe comme un critère pour l'obtention du statut de réfugié. Il s'amorce sur un survol des développements sur la question dans d'autres juridictions et révèle le rôle joué par le Canada par le seul fait de faire les premiers pas en la matière. Le

présent article révèle aussi le processus ayant amené les intervenants domestiques, supranationaux et internationaux à une convergence de vue sur l'introduction de la question de la persécution fondée sur le sexe à l'ordre du jour international.

In 1993, with the release of the *Guidelines on Women Refugee Claimants Fearing Gender-Related Persecution*,¹ Canada took a big step forward in legitimizing the refugee claims of women who face gender-related persecution. The United States and Australia subsequently followed suit by issuing similar policy papers in 1995 and 1996 respectively.² Though in a somewhat more piecemeal fashion, several European countries appear to be moving in a similar direction. Thus, while Canada, the United States, and Australia cannot be said to represent the protection standards of all countries, their policies point to the general direction of normative developments internationally.³ These expansive developments are particularly notable given the general period of retrenchment in refugee policy.⁴

National refugee policy offers an indication of the extent to which a state is willing to act on its international human rights promises. The criteria for granting refugee status set out those rights which are considered so fundamental that their violation is a sufficient basis for granting asylum to a foreign national. When such rights are violated, states are willing to risk offending a fellow sovereign state by granting refugee status to one of its nationals and thus implicitly, if not explicitly, criticizing the other's internal affairs. The case of refugee claims based on gender-related persecution offers the possibility of examining the strength of states' commitment to the human rights of women.

This article investigates the emergence of an international norm accepting gender-related persecution as a basis for refugee status. To explain the genesis of such a norm, it looks for causal connections in the interplay between "bottom-up" factors of domestic interest groups and societal norms; "top-down" factors of the international institutions of law, conferencing, and the United Nations system; and "transnational" factors of principled issue networks⁵ and experts operating within the international refugee system.

Overview of International Developments

It is difficult to establish exactly how the "gender" problem in refugee law was initially identified. In 1984, the European Parliament passed a resolution calling upon states to recognize that women who face harsh or inhuman treatment for having transgressed their society's social mores constitute a "particular social group" within the meaning of the definition of refugee in the *UN Refugee Convention*.⁶ The following year, the Executive Committee of the United Nations High Commissioner for Refugees (UNHCR) passed a similar resolution.⁷ The international community was thereby made aware of this aspect of the gender problem in refugee law.

By 1991, the Canadian Immigration and Refugee Board (IRB) had set up a Working Group on Refugee Women Claimants comprised of IRB Members and staff, refugee women, NGOs, UNHCR representatives and academic experts. This group pressed for the development of Canadian gender guidelines raising both substantive and procedural issues needing to be addressed. In the early 1990s, a series of controversial IRB decisions rejecting gender-related persecution claims

Stephanie Kuttner is a Ph.D. candidate, International Relations, St. Anthony's College, University of Oxford, Oxford, United Kingdom.

brought the issue into the public eye.⁸ Refugee and women's rights advocates managed to bring significant media attention to these decisions and to the systemic gender-bias within the refugee determination process as it then operated. There was a significant public outcry which put politicians under the spotlight; their initial rejection of the need for change was badly received.⁹ Political pressure increased, and eventually a new official position was taken to change national criteria such that gender-related persecution claims became an accepted basis on which to grant refugee status within the Canadian system.

On International Women's Day in 1993, the IRB released the *Guidelines on Women Refugee Claimants Fearing Gender-Related Persecution*. According to the IRB Chairperson, the *Guidelines'* drafters drew on international aids to interpretation including the UNHCR Handbook, various UNHCR statements and initiatives on refugee women, and jurisprudence from other jurisdictions.¹⁰ Academic articles and other authorities were also relied upon. Thus, the *Guidelines* can be said to have emerged from a complex process of interaction with domestic Canadian groups, an international institution (UNHCR), international law (international human rights standards and jurisprudence from other jurisdictions) and transnational issue networks (academic articles and reports of international human rights NGOs).

How were refugee advocates' claims of injustice able to garner such popular support and ultimately lead to change in the national refugee determination systems? Fundamental principles of equality and non-discrimination run through all international human rights treaties and particularly those relevant to women's human rights. In Canada, such principles have been embodied in the cornerstone of the domestic legal and political system: the Constitution. In particular, the *Charter of Rights and Freedoms*¹¹ includes specific sexual equality provisions. As well, all provincial human rights codes have simi-

lar provisions. In the Canadian debate, it is possible to see how fundamental legal norms of equality and non-discrimination, and some preliminary developments on the issue of gender-related persecution at the international level, were used by advocates to strengthen their position.¹²

Canadian advocates for the acceptance of gender-related persecution as a basis for refugee status were therefore able to refer to strongly entrenched principles of equality and non-discrimination in articulating their position. It was not viable for officials to respond by claiming that discrimination was a legitimate or intentional policy choice. Instead, they argued either that the situation did not in fact transgress these principles, that other policy considerations of population control came into play, or that to introduce such a new norm would transgress another fundamental principle—avoiding cultural imperialism. Given the evidence to the contrary, it was difficult to maintain that gender-bias in the refugee determination procedures was not a systemic problem. Floodgates arguments were trumped by the fundamental principles of equality and non-discrimination which also superseded claims of cultural imperialism.

With their release of official policy guidelines, Canada, the United States and Australia have taken the lead in articulating clear standards for assessing gender-related persecution claims. It is more difficult to assess the situation in countries which have not published comprehensive official policy documents on gender-related persecution as a basis for refugee status. How the *UN Refugee Convention* definition of a refugee is reflected in national legislation and jurisprudential interpretation of its provisions vary from country to country. Differences in national refugee determination procedures also affect outcomes of claims based on gender-related persecution. However, it is possible to discern a piecemeal elaboration of standards for accepting gender-related persecution as a basis for refugee status in the scattered judi-

cial decisions and cursory policy statements of certain countries. In an incremental fashion, there has been an ongoing evolution in the concepts of "persecution," "state agency," and criteria for "membership in a particular social group" in international law.

A 1994 comparative study of the policy and jurisprudence relating to female asylum seekers by the Dutch Refugee Council found that the Netherlands, Germany, and France recognize sexual violence as a form of persecution.¹³ In 1996, the Minister of State for the Home Office made a public statement to the effect that gender-specific forms of harm such as forced abortion, sterilization and genital mutilation constitute torture and can therefore be the basis for granting refugee status in the United Kingdom. Instructions to asylum case workers detailing gender-specific practices that constitute torture were subsequently issued.¹⁴

Except for Germany in which it has been accepted that gender can be a ground of persecution,¹⁵ European Union countries have not tended to accept claims of persecution for reasons of gender alone. Recent amendments to the Swedish *Aliens Act*¹⁶ lowers the protection standard available to claimants facing gender-based persecution designating them as "persons in need of protection" rather than refugees under the *UN Refugee Convention*. Most other European Union countries take a restrictive interpretation of the *Convention* ground of membership in a particular social group.¹⁷ The criteria elaborated in Dutch jurisprudence that refugee claimants be shown to have been individually "singled-out" for persecution is problematic for all cases based on social group persecution. The "singled-out" criteria adds to the difficulties of women who base their claims on a gender-defined particular social group.¹⁸ However, German and French refugee determination officials have accepted cases of women fleeing persecution for the transgression of social mores as belonging to a particular social group.¹⁹ Norway has officially adopted the

UNHCR Executive Committee Conclusion No. 39 recommending that women who face retribution for the transgression of social mores be considered members of a particular social group.²⁰ Thus, while in general, gender alone may not be sufficient to establish a particular social group in European Union countries (and Sweden offers a lower protection standard), there has been significant progress made in the recognition of social groups in which gender is one of the determining factors.

Internationalizing the Campaign for Change

How was the campaign to change national refugee determination systems internationalized? Amidst the tangled web of interactions that constitutes international relations, three significant "institutional spaces" can be identified where campaigns for redressing gender-bias in refugee regimes were focused. These are international conferences where transnational issue-networks converged to put pressure on states; the UNHCR where a community of refugee experts could encourage the adoption of policies favouring gender claims; and the international legal process through which new standards are elaborated.

In the international campaign to establish gender-based persecution as a ground for refugee status, women's rights, human rights and refugee rights networks converged. They combined efforts to influence the informational and political contexts in which states took positions at international conferences on women and on human rights at Nairobi in 1985, Vienna in 1993 and Beijing in 1995. Their efforts on the broad issues of women's human rights and violence against women brought an awareness of the gender-bias in international human rights and refugee regimes to state representatives and to international society in general. First, it was necessary to show that the abuses and discrimination suffered by women are widespread and systemic. Second, the "gender" dimension of these abuses needed to be es-

tablished (i.e., women suffer particular forms of harm and for particular reasons related to their gender). Thirdly, it was argued that these situations constitute human rights violations, and as such, should give rise to a finding of (gender-related) persecution in the determination of refugee status.

Transnational issue networks on women's rights, human rights and refugees played the key role of introducing new information and concepts in the debate, and of framing the issues in terms of rights and obligations. States' positions can be seen to have evolved progressively over the ten year period between the Nairobi and Beijing conferences. The particular needs of refugee women were first recognized in the 1985 Nairobi *Forward Looking Strategies*.²¹ At the Vienna conference in 1993, states recognized systemic abuse and discrimination against women as human rights issues.²² Then in 1995, the Beijing *Platform for Action* explicitly called on states to recognize gender-related persecution as a basis for refugee status.²³ Over this ten year period, state representatives at UN conferences and international society in general became aware of the broad issues of women's human rights and of their particular implications for refugee status determination. Thus, transnational issue networks achieved the goals of agenda-setting and of exerting influence on the positions of states at international conferences.

The UNHCR provided a second "institutional space" in which refugee experts could focus states' attention on the problems of gender bias in refugee regimes. The UNHCR brings together a community of refugee experts working within the agency, with state representatives who direct the activities of the UNHCR as members of its Executive Committee. Matters are presented by the Office of the High Commissioner and other working groups to the Executive Committee which deliberates and draws conclusions meant to both guide the activities of the UNHCR and direct the refugee policy of Mem-

ber States. In this manner, the UNHCR has served as a forum for the coordination of states' responses to the issue of gender-related persecution.

In 1985, the High Commissioner for Refugees proposed that the Executive Committee (of state representatives to the UNHCR) adopt a Conclusion recognizing the persecution of women who transgress social mores as a basis for refugee status. Further UNHCR Conclusions, increasingly supportive of a gender-sensitive refugee policy, were adopted at annual sessions of the Executive Committee from 1987 onward. In 1990, the Executive Committee adopted the comprehensive Policy on *Refugee Women*²⁴ developed by experts within the UNHCR. A year later, *Guidelines on the Protection of Refugee Women*²⁵ were made public and *Guidelines on Prevention and Response to Sexual Violence Against Refugees*²⁶ were released in 1995. In 1996, the UNHCR convened a Symposium on Gender-Based Persecution. By this time, the UNHCR itself had adopted a strong position in support of an international norm accepting gender-related persecution as a basis for refugee status and encouraged states to develop national gender guidelines. Thus, the UNHCR provided an important "institutional space" in which support could be developed for a new international norm.

International law provided the third international "institutional space" in which the case for accepting gender-related persecution as a basis for refugee status was advanced. International law establishes standards of state conduct through both treaties and customary international law. States that fail to respect these standards find themselves in violation of international law. Violations of human rights and refugee law, because of the focus of each on the interests of individuals rather than of states, may bring little direct sanction from other states. However, to be shown not to respect human rights is a politically uncomfortable position for most governments in their relations with other states and, for some governments, within the arena of domestic politics.

While the debate continues over whether UN General Assembly resolutions in themselves contribute to the creation of customary international law, it is agreed that many of the provisions of the 1948 *Universal Declaration on Human Rights* are established principles of law. The 1993 UN General Assembly *Declaration on the Elimination of Violence Against Women*, and UN Conference Resolutions at Nairobi, Vienna and Beijing may not yet constitute law in the strict sense, but certainly constitute normative international standards against which violations can be condemned. What is perhaps most relevant to note in these declarations and statements is their use of normative language to prescribe and proscribe the behaviour of all states, not just that of states which participate in their elaboration.

Finally, law has an indirect, but extremely powerful influence on the development of international norms by providing a language and conceptual framework within which to present women's claims for refugee status. It is in this way that retribution for the transgression of a social more (take for example the case of stoning of an "adulteress") can be presented as a human rights issue (wherein international standards are violated), which forms the basis of a claim for refugee status and results in protection by the international community. Similarly, through the use of a legal rights discourse, we have come to understand discrimination as persecution, military rapes as war crimes, and domestic abuse as torture.

The Emergence of a New Norm

The exclusion of gender-related persecution as a basis for granting refugee status originates in international law. However, the effects of this exclusion were felt at the national level of refugee determination systems, and it is at this level that pressure for change first developed. The campaign for the eradication of the gender-bias in refugee determination procedures was internationalized through three significant processes: the campaigns of

transnational issue networks on human rights, refugee and women's rights at international conferences; the efforts of experts working within the UNHCR to coordinate the development of refugee policy among states; and the elaboration of standards in international law. Thus, an international dimension was added to domestic pressure building at the national level for change in refugee determination systems. New policy accepting gender-based persecution was initially adopted at the national level. As some states began developing gender-sensitive refugee policy, pressure increased on states who had not institutionalized the norm to do likewise. A fledgling international norm was born.

In closing, it must be remembered that granting refugee status is only a remedial measure which does not address the underlying problem of gender-related persecution except to the extent that granting refugee status implies condemnation of a situation in the asylum seeker's state of origin. This in turn only affects the situation of women if such a condemnation adds pressure on the state of origin to eliminate the source of persecution. Here, considerations of diplomacy come into play: states tend to be reticent to condemn a political or cultural ally by accepting its citizens as refugees. When refugee status is granted, the implied condemnation itself may have little effect in countries which do not seek to become part of a normative community of liberal democracies. The condemnation can even lead to resentment and unwillingness to comply with the perceived imposition of Western standards.

Nonetheless, refugee systems provide an important, if remedial, measure of protection for individuals whose own states have failed them. A norm accepting gender-related persecution as a basis for refugee status extends this important measure of protection to a class of people who had been unjustly excluded. The introduction to this paper suggested that refugee policy can be considered a rough test of a state's commitment to its human

rights pronouncements. Since human rights are inevitably an issue that challenges classic conceptions of sovereignty, one wonders to what extent is state-led progress possible when it is states themselves whose identities are reliant on the principle of sovereignty.

Just how far will states push the limits of sovereignty? Accepting such claimants as refugees may be the greatest extent of their "intervention" in other countries to protect individuals from human rights abuses. Yet even this is not insignificant, for at least it reveals a tension between states' respect for sovereignty and their respect for international human rights standards. Perhaps more than students of international relations give them credit, states know that they operate in both a system of states and in an international human society. ■

Notes

1. *Guidelines on Women Refugee Claimants Fearing Gender-Related Persecution*, issued by the Chairperson Pursuant to Section 65(3) of the *Immigration Act*, IRB, Ottawa, 9 March 1993.
2. *Gender Guidelines: Considerations for Asylum Officers Adjudicating Asylum Claims From Women*, Memorandum of 26 May 1995 from Phyllis Coven, Office of International Affairs, to all INS Asylum Officers and Headquarters Coordinators; and *Guidelines on Gender Issues for Decision Makers: Refugee and Humanitarian Visa Applicants*, Department of Immigration and Multicultural Affairs, Australia, July 1996.
3. While this article will refer to the development of an international norm, evidence of this development is Western-biased as it is primarily in these countries that refugee status determination procedures apply the criteria of the 1951 United Nations *Convention relating to the Status of Refugees (UN Refugee Convention)*, 189 U.N.T.S. 2545, entered into force 22 April, 1954. Evidence of more broadly-based international support for the norm is found in UNHCR EXCOM Conclusions and UN conference declarations on refugee women.
4. Through the indirect methods of travel restrictions, "port of first entry" requirements and "safe country" policies, many States have been tightening restrictions for entry as refugees. See Barbara Harrell Bond, "The Evolution of Solutions: A

History of Refugee Policy," *Oxford International Review* VII, no. 3 (Summer 1996): 2-6.

5. A transnational issue networks is defined as "the set of relevant actors working internationally in an issue who are bound together by shared values, a common discourse, and dense exchanges of information and services." Kathryn Sikkink, "Transnational Networks on Violence Against Women," Paper prepared for presentation at the XIX International Congress of the Latin American Studies Association, Washington, DC, September 28-30, 1995, 3. Examples of transnational issue networks would include the international environmental lobby, the international human rights movement, international nuclear disarmament campaigns, etc.
6. European Parliament Document 1-112/84, Resolution adopted April 13, 1984.
7. "Conclusion on Refugee Women and International Protection" (no. 39), UNHCR EXCOM, Report of the 36th Session: UN Doc. A/AC.96/673, para. 115(4)(k).
8. See the case of "Nada," a Saudi woman, who was harassed by the "religious police" for acting contrary to the restrictions imposed on women, and the case of "Dularie," a Trinidadian woman who was fleeing severe domestic abuse from

which she did not receive protection by the authorities. These cases are discussed in Audrey Macklin, "Refugee Women and the Imperative of Categories," *Human Rights Quarterly* 17 (1995): 215-17.

9. Estanislao Oziewicz, "Canada Not Planning to Widen Refugee Rules to Cover Sex Bias," *Globe and Mail*, Toronto, 16 January 1993, A9.
10. Nurjehan Mawani, "Introduction to the Immigration and Refugee Board Guidelines on Gender-Related Persecution," *International Journal of Refugee Law* 5, no. 2 (1993): 240-47.
11. *Canadian Charter of Rights and Freedoms*, Part I of the *Constitution Act 1982*, being Schedule B of the *Canada Act 1982* (U.K.), 1982 c.11.
12. Hossie, Linda "For Women, Oppression is Often a Way of Life," *Globe and Mail*, Toronto, 5 February 1993, A1.
13. Anne Leiss and Ruby Boesjes, *Female Asylum Seekers: A Comparative Study Concerning Policy and Jurisprudence in The Netherlands, Germany, France, The United Kingdom, Also Dealing Summarily With Belgium and Canada*, (Amsterdam: Dutch Refugee Council, 1994), 93.
14. The Refugee Council, *Factfile: Women Refugees*, London, November 1996, 4.
15. Leiss and Boesjes, *Female Asylum Seekers*, 95.

16. See chapter 3, section 1 of the *Aliens Act* (1989, 529) as amended by Act (1996, 1379), adopted 12 December 1996, entered into force 1 January, 1997.
17. Isabelle Daoust and Kristina Folkelius, "Developments: UNHCR Symposium on Gender-Based Persecution," *International Journal of Refugee Law* 8 no.1 (1996): 180.
18. Leiss and Boesjes, *Female Asylum Seekers*, 94.
19. *Ibid.*, 95.
20. Daoust and Folkelius, "Developments," 181.
21. *Nairobi: Forward Looking Strategies for the Advancement of Women*, paras. 298-89, UN Doc. A/CONF.116/28/Rev.1 (1985).
22. UN World Conference on Human Rights: *Vienna Declaration and Programme of Action*, adopted 25 June 1993, UN Doc. A/CONF.157/24, para. 18.
23. UN Fourth Conference on Women, *Beijing Declaration and Platform for Action*, UN Doc. A/CONF.177/20 (1995), paras. 147 (h), (i).
24. UNHCR EXCOM, Report of the 39th Session: UN Doc. A/AC.96/754.
25. UNHCR, UN Doc. EC/SCP/67, Geneva, July 1991.
26. UNHCR, Geneva, 8 March 1995. □

From Being Uprooted to Surviving:

Resettlement of Vietnamese-Chinese "Boat People" in Montreal, 1980-1990

By Lawrence Lam

Toronto: York Lanes Press; ISBN 1-55014-296-8, 200 pages, indexed; \$18.95

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Defining a Particular Social Group Based on Gender

Elizabeth Adjin-Tetty

Abstract

It is now accepted in refugee jurisprudence that gender-based social groups fall within the meaning of Particular Social Group for purposes of according Convention refugee protection. However, the criteria for identifying gender-based social groups remains to be settled. The tendency has been to identify the at-risk group by the common victimization which confronts group members. This is neither innate nor constant. The author takes the position that the group should simply be identified by the gender of its members—women, although there may be subgroups of women united by other characteristics such as race, nationality or religion. Not all group members will automatically be eligible for refugee protection; only women who are genuinely at risk of persecution will be accorded Convention refugee status.

Précis

Il est maintenant reconnu, dans la jurisprudence en matière de droit des réfugiés, que les groupes sociaux fondés sur le sexe sont un type de groupe social particulier aux fins de l'allocation des protections dues aux réfugiés en vertu de la Convention. Cependant, le critère d'identification des groupes sociaux fondés sur le sexe reste à définir. La tendance a été à identifier les groupes à risque par le dénominateur commun de la victimisation à laquelle les membres du groupe sont confrontés. Ceci n'est ni une inhérence ni une constance. L'auteure du présent article assume la position que le groupe devrait simplement être identifié de par le sexe de ses membres: des femmes, quoiqu'il y ait des sous-groupes de femmes unis par d'autres caractéristiques, telles la race,

la nationalité ou la religion. Ce ne sont pas tous les membres du groupe qui seront automatiquement éligibles au statut de réfugié: seules les femmes qui sont réellement confrontées à un sérieux danger de persécution obtiendront le statut de réfugiées en vertu de la Convention.

Eligibility for Convention refugee protection depends on the ability to establish a nexus between a well-founded fear of persecution and the claimant's civil or political status. The Convention refugee regime limits protection to persons who face a genuine fear of persecution by reason of their race, nationality, religion, political opinion or membership of a particular social group. The particular social group category is proving to be a very versatile ground for recognizing claims arising from gender-based persecution and other non-enumerated grounds for according convention refugee status.

Contemporary jurisprudence on the definition of "Convention refugee" unequivocally recognizes that "gender" is a particular social group. Hathaway states that "Gender-based groups are clear examples of social subsets defined by an innate and immutable characteristic. Thus, while gender is not an independent enumerated ground for Convention protection, it is properly within the ambit of the social group category."¹

In *A.G. v. Ward*, the Supreme Court of Canada stressed the element of immutability in defining a "membership in a particular social group." After reviewing scholarship and jurisprudence on the meaning of the particular social group category, Mr. Justice La Forest identified three possible categories for defining a social group within the meaning of the Convention refugee definition. These are groups defined by an innate or unchangeable characteristic; groups whose members

voluntarily associate for reasons so fundamental to their human dignity that they should not be forced to forsake the association; and groups associated by a former voluntary status, unalterable due to its historical permanence.²

Reference to an innate characteristic, such as sex, as defining a particular social group ensures that women or a subset of women in a particular society may be considered a particular social group for purposes of according Convention refugee protection when they are susceptible to serious harm for no other reason than being women. Indeed, this possibility was recognized by the Supreme Court of Canada in *A.G. v. Ward*. Mr. Justice La Forest noted that the first category of persons united by an innate or unchangeable characteristic would encompass individuals fearing persecution on the basis of their gender.³ Recognition of gender as identifying a social group is supported by the Canadian Gender Guidelines.⁴

Though the Supreme Court of Canada has clearly declared that gender can be the basis for identifying a particular social group, some confusion remains regarding whether gender alone can constitute the basis of the social group, or whether gender might be one characteristic that must combine with others to define the social group. The Canadian Guidelines are in part the source of this ambiguity, since they concede that while being a woman *per se* could entitle one to membership in a social group, the size of the group could be limited by the common victimization or vulnerability of the members of the group to persecution.⁵ This approach attempts to define the group by reference to the nature of persecution feared. It also suggests that the group is defined by reference to gender and some other characteris-

Elizabeth Adjin-Tetty, Ph.D., is a lecturer in the Department of Law, Carleton University, Ottawa.

tic, usually the common victimization which confronts group members.

This was the position adopted by Mr. Justice Mahoney in the pre-*Ward* decision of *Mayers v. M.E.I.*⁶ in which the Federal Court of Appeal held that the claimant belonged to a social group comprising "Trinidadian women subject to wife abuse." Mahoney's approach to the definition of a particular social group was adopted by Mr. Justice Linden in *Cheung v. M.E.I.*⁷ After reviewing the *Mayers* decision, Mr. Justice Linden concluded that "women in China who have more than one child and are faced with forced sterilization because of this form a particular social group so as to come within the meaning of the definition of Convention refugee."⁸

This approach finds further support from the *Ward* decision. By saying that a particular social group cannot be defined solely by reason of the common victimization of its members, Mr. Justice La Forest appears to be suggesting that the common vulnerability of the group, combined with other characteristic(s) may be sufficient to delineate a particular social group. Thus, in spite of the guidelines for identifying the existence of a particular social group outlined in the *Ward* decision—immutable characteristics, voluntary association for reasons fundamental to human identity and former voluntary status—some post-*Ward* decisions continue to define gender-based social groups by reference to the common victimization which confronts its members. In *Narvaez v. Minister of Citizenship & Immigration*, Mr. Justice McKeown took the position that women in Ecuador subject to domestic violence constitute a particular social group.⁹

This approach is problematic. Though the anti-discrimination approach to identifying a social group presupposes that the members of the group are susceptible to victimization, naming a particular harm feared as the basis of defining the group deviates from the focus on immutability as the foundation of gender-based social groups. The common victimization

confronting the group is of course not innate, and is clearly not the basis upon which the harm is feared. This critique has sometimes been acknowledged by the Canadian Immigration and Refugee Board, as in the case of *America Torres*. The claimant, a citizen of Ecuador, was allegedly fearful of persecution by reason of her membership in a particular social group, i.e., abused women who do not receive any effective protection from the home state. The panel was of the view that defining a social group by reference to the particular harm feared is circular. "A claimant must fear persecution for a Convention reason. The Convention reason must preexist the persecution. To argue that someone is persecuted for the reason that she is persecuted is [nonsensical]."¹⁰

It appears more logical to define groups in terms of vulnerability in general because of an innate characteristic, rather than by reference to particular forms of vulnerability.¹¹ Understood in this way, women constitute a particular social group both because of an innate characteristic that they share (gender), and because of their susceptibility to serious human rights violations.¹² The fact that not all women are targets of gender-related serious human rights abuses at any one particular time does not affect the designation of women as a particular social group. After all, all group members need not be at risk of persecution before they can be recognized as a "particular social group." This position has been affirmed by the Supreme Court of Canada. In *Brooks v. Canada Safeway Ltd.*,¹³ the appellant, who became pregnant while in the employ of the respondents, alleged that a group insurance plan maintained by the latter that excluded payment of benefits to pregnant women during a seventeen week period even if they suffered from an ailment totally unrelated to pregnancy amounted to sex discrimination. The respondents were of the view that since not all women became pregnant, pregnancy related discrimination was not sex discrimination. In allowing the appeal, the Chief Justice

noted that pregnancy related discrimination amounts to discrimination on the basis of sex, even though not all women become pregnant at any one time. He pointed out that pregnancy cannot be separated from gender. "While pregnancy-based discrimination only affects part of an identifiable group, it does not affect anyone who is not a member of the group ... This fact does not make the impugned distinction any less discriminatory."¹⁴

The prevalence of discrimination and violence against women, especially in the so-called "private sphere," is common knowledge.¹⁵ Thus, being a woman in and of itself is so full of risks that some states have not been particularly enthusiastic in recognizing a social group that potentially has millions of members. Such concerns are defeated by the *ejusdem generis* approach since the other four categories—race, nationality, religion and political opinion—are characteristics which are also shared by large numbers of people.¹⁶ The Canadian Gender Guidelines note that "the fact that the particular social group consists of large numbers of the female population in the country concerned is *irrelevant*—race, religion, nationality and political opinion are also characteristics that are shared by large numbers of people."¹⁷

Just being a woman in some societies, makes one susceptible to human rights violations committed with impunity, particularly in the domestic, unregulated sphere.¹⁸ It is therefore not necessary to qualify the group "women" in order to remain faithful to the anti-discrimination logic of the nexus requirement. This appears to be Mr. Justice La Forest's position in *A.G. v. Ward*, where he simply listed gender without any qualification as the basis for identifying a social group because it is an innate characteristic. The Canadian Immigration and Refugee Board has endorsed this approach to defining gender-based particular social groups. In its update on the Gender Guidelines, the IRB unequivocally states that since gender is an innate characteristic, women may form a particular social group within the Con-

vention refugee definition.¹⁹ In *Fatin v. I.N.S.* the United States Court of Appeals for the Third Circuit also endorsed a similar position when it emphasized that an Iranian applicant who feared persecution because she is a woman can be a member of a particular social group.²⁰

Recognizing that women may constitute a particular social group does not, of course, automatically make all women eligible for Convention refugee protection. In view of the individualized focus of refugee protection, a woman will have to establish her membership in the group that is demonstrably susceptible to persecution. Thus, eligibility for refugee protection based on gender defined social group turns on whether a woman has a well-founded fear of persecution in her home country because of membership in this group. In *Cheung v. M.E.I.*, the Federal Court of Appeal pointed out that recognizing that women in China who have more than one child and threatened with sterilization constitute a particular social group did not automatically make all women in the group eligible for Convention refugee protection. "It is only those women who also have a well-founded fear of persecution as a result of that who can claim such status."²¹

Whereas in some countries, all women may be vulnerable to serious human rights violations, in many countries only a subset of the population of women will be at risk. In such cases, gender will be one form of civil or political status that together with an intersecting ground of claim (such as race, religion or other innate or fundamental characteristics), will combine to define the particular social group. In view of the anti-discrimination purpose of refugee protection, these other characteristics should be immutable in the sense of being either innate or so fundamental to the identity or basic human dignity of the members that requiring them to forsake their belief will constitute a violation of their basic human rights. For instance, the *Gender Guidelines Update* recognizes that in addition to women being a particular

social group, there may also be other particular social groups made up of subgroups of women. These groups may be identified by reference to other immutable characteristics such as age, race, marital status or economic status.²²

For example, in the *Fatin* case, the appellant's primary argument was not that she was at the risk of persecution simply because she is a woman. Instead, she alleged that she risked harm as a member of a "very visible and specific subgroup: Iranian women who refuse to conform to the government's gender-specific laws and social norms."²³ The U.S. Court of Appeals found that the at-risk group did not include all Iranian women who hold feminist views, or even all those who object to the gender-specific rules in Iran. The group at risk of persecution is limited to those women who hold a particularly strong political or religious opinion in opposition to the policies of the theocratic state. This category meets the test for a particular social group, since it combines two forms of immutable status, namely gender and political or religious opinion.

Similarly, in *Zekiye Incirciyan*,²⁴ the Immigration Appeal Board held that "single women living in a Moslem country without the protection of a male relative" constitute a particular social group. In this case, gender was combined with other characteristics to define the social group to which the claimant belongs. In his commentary on the *Incirciyan* decision, Hathaway justifies the identification of the social group as conforming to the anti-discrimination approach by pointing out that members have no control over their gender or absence of male relatives. He also notes that choice of marital status is a fundamental human right that no one should be required to relinquish. In view of the position that particular social groups ought to be defined in terms of vulnerabilities in general rather than by reference to particular forms of harms, perhaps the social group of which *Incirciyan* is a member should have been simply "unmarried women."

Following from the immutability test, the particular social group in *Cheung* ought to have been identified as "women in China who have more than one child." This group is united not only by gender but also by a common conviction—reproductive liberty—which is so fundamental to their human dignity that they should not be required to alter it. Of course, not all women in China with more than one child will be eligible for refugee status. As rightly pointed out by Mr. Justice Linden, only those women who have a well-founded fear of persecution by reason of their status can claim refugee protection. Since forced sterilization is not an innate or unchangeable characteristic, it should not be the basis for defining the social group. This approach also ensures that eligibility for refugee protection is not limited to women threatened with forced sterilization but to those facing other forms of persecution as a result of having more than one child.

In sum, there have been considerable developments regarding the particular social group category. It is now settled that a social group can be defined by the gender of its members. Although the determination of refugee status remains a national prerogative of states, there has, however, been willingness at both regional and national levels to recognize women as constituting a particular social group, meaning that women confronted with the risk of gender-related persecution solely because of their gender are eligible for refugee protection based on the social group category. Whereas all women are part of a social group, only those who are likely to be victimized or marginalized because of their gender will be eligible for Convention refugee protection as these will be the only persons within the category who are genuinely at risk of persecution. The class of at-risk women may sometimes be defined by reference to gender and other innate or fundamental characteristics, rather than the common victimization, which distinguishes women in need of refuge from the general population. ■

Notes

1. J. C. Hathaway, *The Law of Refugee Status* (Toronto: Butterworths, 1991), 162.
2. *A.G. v. Ward* [1993] 2 S.C.R. 689 at 739.
3. *Ibid.*, at 739.
4. See Immigration and Refugee Board, *Women Refugee Claimants Fearing Gender-related Persecution*, 5-6 (1993).
5. *Ibid.*, at 6.
6. 97 D.L.R. (4th) 729 (1992).
7. [1993] 3 F.C. 314 (F.C.A.).
8. *Ibid.*, at 87.
9. [1995] 2 F.C. 55 at 60; see also *Diluna v. M.E.I.* (1995), 29 IMM. L.R. (2d) 156.
10. IRB Decision T92-03227, November 18, 1992, at 6.
11. See F. Stairs and L. Pope, "No Place Like Home: Assaulted Migrant Women's Claims to Refugee Status" (1990), 6, *Journal of Law & Society* 148, at 171; A. Macklin, "Canada (Attorney General) v. Ward: A Review Essay," 6(3) INT'L J. REF. L. 362, 377 (1994); "Refugee Women and the Imperative of Categories," 17 HUM. RTS Q. 214, 246-47 (1995).
12. See Stairs and Pope, *op. cit.*, at 166-67.
13. [1989] 1 S.C.R. 1219 (S.C.C.).
14. *Ibid.*, at 1247. See also *Janzen v. Platy Enterprises Ltd.* [1989] 1 S.C.R. 1252 (S.C.C.), where the Chief Justice observed that sexual harassment need not be suffered by all women in order to qualify as discrimination on the basis of gender. In other words, all members of the affected gender or particular group need not be treated identically before discrimination on the basis of a group characteristic can be recognized. In this case, the fact that other female employees were not sexually harassed did not negate the claim of the appellants that they had been victims of sex discrimination while working for the respondents. The critical fact in this case was that it was only women employees who ran the risk of sexual harassment.
15. For instance, the world community affirmed this perception in the *Declaration on the Elimination of Violence against Women*, 1994. The preamble to the Declaration recognizes the urgent need to apply fundamental human rights to women (paragraph 1). It also notes in paragraph 6 that "violence against women is a manifestation of historically unequal power relations between men and women which has led to domination over and discrimination against women by men ... and violence against women is one of the crucial social mechanisms by which women are forced into a subordinate position compared with men."
16. See Hathaway, *supra* note 1, at 163.
17. Canadian Gender Guidelines, *supra* note 4, at 6.
18. Often times, violence committed against women in the public sphere receives more attention from police and judicial authorities compared with those which occur in the private familial sphere. Though fear of serious harm in the public realm may also constitute the basis of a well-founded fear of persecution, often times, the harms from which women receive no effective protection from the state of origin are those which take place in the private realm, hence the emphasis on privately inflicted violations of women's rights.
19. Immigration and Refugee Board, *Women Refugee Claimants Fearing Gender-related Persecution: Update* (November 1996), at 8.
20. *Fatin v. I.N.S.*, 12 F.3d 1233 at 1240 (3rd Cir. 1995).
21. *Supra* note 7, at 87.
22. *Supra* note 19, at 9.
23. *Supra* note 20, at 1241.
24. Immigration Appeal Board Decision M87-1541X, August 10, 1987. □

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By
James C. Hathaway
and John A. Dent

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Gender Differences and Family Reunion in the European Union: Implications for Refugees

Eleonore Kofman and Rosemary Sales

Abstract

The feminization of immigration flows into Europe, both through family reunion and the independent migration of women, has been one of the most significant social changes of the past two decades. This development has, however, remained largely unexplored. This paper examines the consequences of changes in access to family reunion, and its gendered implications for women entering as family migrants and as applicants to sponsor family members. It calls for a positive evaluation of immigration policy aimed at securing rights as well as controlling immigration flows.

Précis

La féminisation du flux migratoire vers l'Europe, du aux réunifications successives de familles ou à l'immigration indépendante des femmes, a été l'un des changements sociaux les plus significatifs des deux dernières décennies. Cependant, ce développement est demeuré largement inexploré. Le présent article examine les conséquences des changements dans l'accessibilité à la réunification familiale et leurs implications pour les femmes entrant comme immigrantes pour raisons familiales, ainsi que pour les femmes envisageant de parrainer des membres de leurs familles candidats à l'immigration. Un appel est fait pour une évaluation positive des politiques d'immigration visant à préserver les droits autant qu'à contrôler le flux migratoire.

The feminization of immigration flows into Europe has been one of the most

Eleonore Kofman, Ph.D., is Professor of Geography at Nottingham Trent University, Nottingham, United Kingdom.

Rosemary Sales, Ph.D., is Principal Lecturer in the School of Social Science at Middlesex University, London, United Kingdom.

significant social changes of the past two decades. The mass post-war labour migrations into Europe had been mainly of single people and were predominantly male, although in some instances (for example the Irish to Britain) women outnumbered men. With the onset of recession in the mid 1970s, most European states ended mass primary labour immigration. Family reunification was eased in countries where it had previously been more restrictive, contributing to the feminization of immigrant flows and the permanent settlement of immigrant populations. Apart from undocumented migrants and asylum seekers, European immigration has been heavily female since the mid-1970s. An estimated six million third country nationals, of whom 45 percent were women, had right of residence in the European Union (EU) in 1990 (Castles and Miller 1993). Adding the four million who have acquired citizenship, together with undocumented workers, gives a population of at least five million women from third countries.

Since the 1970s, ever more stringent attempts have been made to end immigration, deter the arrival of newcomers with the right of entry, and encourage immigrants to leave. Although the opening of East-West borders has led to new forms of guest-worker migration to a reunited Germany (Morokvasic 1993; Rudolph 1996), the main source of immigration into Western Europe in the past twenty years has been family formation and reunion. Excluding asylum seekers, it accounted for the overwhelming majority of legal immigration to Belgium and Germany throughout the 1980s, and was the major source of permanent settlement in France and the United Kingdom. In tightening the conditions of entry and subjecting family formation and reunification of part-

ners and children to more rigorous restrictions, the objective has been to impose greater control on migration flows and contain the reproduction of immigrant communities.

The early 1990s also witnessed a dramatic increase in the numbers of asylum seekers in Europe. In the period 1983–1994 applications totalled almost 4.5 million, increasing from 70,000 in 1983 to a peak of 702,000 in 1992 (Salt 1995). Approximately 80 percent of asylum applications in Europe come from men. This results partly from the male majority in many refugee flows, since men are considered the main applicant in a joint application, while women are often rendered invisible in the statistics. It also reflects the difficulties women have had in being accepted as refugees in their own right (Crawley 1997). Asylum granting authorities are more ready to accept men as political actors, and they therefore have a higher chance of being granted Convention Status. Women on the other hand are more likely to be granted some form of residence status on humanitarian grounds,¹ which brings fewer social rights.

The sharp increase in asylum seekers, together with German unification and the breakdown of state structures in Eastern Europe brought the issues of immigration and asylum to the fore in the 1990s, especially in Germany and Austria, precipitating measures to restrict entry at state and supra-national level. European integration has brought moves to harmonize immigration and asylum policy across the European Union, sharpening the distinction between the rights of citizens and non-citizens, and between legal and undocumented residents (Kofman and Sales 1992). Increasingly draconian policies against immigrants and asylum seekers have been developed by inter-governmental institu-

tions such as Schengen and agreements made under the Maastricht Treaty.

Individual governments have implemented their own restrictions. Refusals and deportations have increased dramatically across Europe. In Britain, for example, refusals were 20–25 percent of decisions in the 1980s, increasing to over 80 percent in 1996, with grants of asylum down to 6 percent (Home Office). Detentions of asylum seekers have also increased (Joint Council for the Welfare of Immigrants [JCWI] 1997, 86). These measures have been effective in deterring asylum seekers, bringing a fall of more than a third in applications between 1995 and 1996. In France mass deportations have taken place using specially chartered airlines.

Despite the convergence of policies on control of entry, the incorporation and integration of immigrants and race relations remains largely within the domain of "subsidiarity," that is the remit of individual member states. The European Commission and Parliament have attempted to pursue a more positive role in securing the rights of migrant workers and asylum seekers (JCWI 1994a), basing their recommendations on a series of European and international conventions.

Family reunion is considered by some to be one of the most basic rights, derived from general principles of human rights (Baubock 1991). The *Universal Declaration of Human Rights* (1948) included an article on the right to marry and found a family. The 1990 *UN Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families* encouraged family reunion but left it to the goodwill of states to implement (Hune 1991). In all European states, however, legal migrant workers must meet stringent conditions before being given permission to bring in close family members. Some cases have been brought to the European Court of Human Rights on the basis of Article 8 (i.e., respect for private and family life) of the *European Convention of Human Rights* which, unlike other European conventions,

encompasses nationals and non-nationals. A recent decision tipped the balance in favour of state immigration control and against family life: the court concluded that the location of a family in two states does not present an insurmountable obstacle to the pursuit of family life, and that the potential for breaches of immigration law favours exclusion of family members (JCWI 1996, 9).

None of the main instruments concluded for the protection of refugees guarantees the principle of family reunification (Plender 1991, 372). Most European states, however, grant it virtually unconditionally to those with full refugee status or to people displaced from conflict zones deemed "special cases." As the number of grants of Convention status diminishes, a growing proportion of asylum seekers are enduring long separation from their families. Refugees granted some form of humanitarian status, as well as those awaiting a decision or appealing against refusal, have extremely limited and conditional rights to family reunion. As increasingly stringent conditions are placed on those applying for family reunion, the impact is likely to be felt most severely by women asylum seekers whose vulnerable legal and economic status places immense obstacles to meeting the requirements.

Family Reunion and Formation

Family reunification refers to members of a family joining a settled migrant while family formation involves a non-citizen spouse joining a citizen. Of all immigration policies, it is the most explicitly gendered in its principles and application. State policies have generally assumed relationships of dependency between female migrants and the husband or fiancé they are joining, viewing the man as breadwinner. Restrictions on their rights in the initial years of residence, which vary between states, may make it more difficult to gain an independent legal and social status in subsequent years. Limitations on the right to work and access

to welfare force many into casualized and exploitative work situations.

Despite its numerical significance, there has been little theoretical, policy-oriented or statistical analysis of this form of migration. Admittedly, focusing on this issue could lead to demands for even more restrictive measures on the grounds that family reunification is one of the few remaining avenues available for immigration. The silence on this area is, however, more likely to be a result of the tendency by mainstream theorists to marginalize female-dominated forms of international migration. The prevailing attitude has been that men produce and women reproduce. In this view, women migrate to join men as wives and dependents and their participation in the labour market is secondary (Kofman 1997). Hence, as Morokvasic (1984) commented over a decade ago, there is no need to question or probe more deeply the reasons for female migration.

Academic literature is slowly beginning to investigate the issue of family reunification (Lahav 1996). France is the only state to have commissioned in-depth and large-scale research on the family formation of immigrants from different backgrounds (Silberman 1991; Tribalat et al. 1991; Tribalat 1996), as well as small-scale studies of the experiences of those bringing in members (Hu Khoa and Barou 1996). These studies have exposed changing patterns of male migration, i.e. as migration has become more risky with increasing numbers of undocumented migrants and asylum-seekers, it has tended to select single men. Many groups continue to favour bringing in wives from their home country; for example, 80 percent of single Turkish men seek wives in Turkey.

The research also reveals a growing male component in family reunification flows, as women (whether as independent labour migrants, second and third generation migrants, or refugees and asylum seekers) apply to bring in family members. This is particularly important among those groups who seek spouses in their

countries of origin. British statistics also reveal a growing masculinization of family reunion flows from the Indian sub-continent and Africa (Home Office).

The European Year of the Family ironically coincided with an inter-governmental meeting of the European Union in June, 1993 which adopted highly restrictive resolutions on family reunion. Though not binding, these will tend to be incorporated into national legislation. The definition of the family is restricted to spouse and dependent children, while applications for family reunion must be made outside the receiving state i.e. regularization outside the procedures is excluded (JCWI 1994a, 25–26). This runs contrary to the *Report of the Committee on Civil Liberties and Internal Affairs of the European Parliament* (European Parliament 1992) which reminded states of their obligations emanating from international conventions, and urged them to take no action which would render these rights devoid of substance (JCWI 1994a, 24).

Those included within the definition of "family" for immigration purposes varies between states. Only the United Kingdom² and the Netherlands allow non married heterosexual partners to enter. The Netherlands and the Scandinavian countries recognize homosexual relationships in their immigration legislation. Some gay couples have been admitted under exceptional grounds in Britain. According to the campaigning group Stonewall, by Autumn, 1996, seventeen gay men had been allowed to stay on the basis of a homosexual relationship. These remain, however, minor exceptions to rules which generally impose legal marriage as a condition. Helma Lutz (1994) points out the differential standards involved:

While over the last three decades, European legislation has taken into account the radically changing role patterns between spouses by legally equating cohabitation with marriage, in the case of immigrants, the situation is the reverse: marriage has

become, more than ever, the backbone of legal entrance to the EU.

Legislation on freedom of movement entitles EU nationals resident in another member state to bring in their family, including spouses and children who are non-citizens. There is no such right for EU nationals resident in their own country, where national rules on family reunion apply. Some states, including Germany, Italy and France, grant their own nationals the right to bring in foreign spouses, although in the latter case, even this form of marriage is coming under more active surveillance. In others, including the Netherlands and Britain, spouses of nationals must meet the same stringent criteria as those of foreign nationals.

No EU state provides the automatic right for migrants with right of residence to bring their families to join them. While all recognize marriages contracted abroad, conditions for the entry of spouses and other dependants vary considerably (JCWI 1994a; JCWI 1994b). In Germany, for example, a migrant man (including non-citizens born in Germany) can only get an entry permit for a wife if he has lived in Germany for at least eight years before marriage, and if the marriage has already existed for at least one year. This illustrates the double standard in treatment of migrant families, since the condition forces the couple to live apart for a year, a period of separation which German divorce legislation takes as an indicator of marital breakdown (Polzer 1995). In Britain the Conservative government introduced the "primary purpose rule" under which spouses must demonstrate that the main purpose of marriage is not immigration. It was not enough to show that the marriage was genuine, or even that the couple had produced children.³ The rule has been racially targeted at spouses from Third World countries (JCWI 1997). The Labour government, elected in May 1997 has declared its intention not to use the rule in most cases. It is not yet clear what impact it will have on groups such as those from the Indian sub-continent, where 70

percent of whose applications are currently turned down.

In many European states, it has become more difficult for fiancés to gain entry, as marriages are viewed with increasing suspicion as a means of gaining immigration status. In France, the period of dependence for spouses has been reduced, but fiancés have to face a longer period before gaining independent rights. Where the future spouse's residency conditions require extension, they are increasingly forced to leave the country to apply for a valid visa and are not certain of being granted one.

All states with the exception of Belgium make entry conditional on the applicant's ability to maintain the family out of his or her own resources from employment or business, and all require the applicant to demonstrate that they have adequate housing. French research shows that this is the most difficult obstacle (Tribalat 1996). It is likely to become more onerous as the applicant must now provide a living standard equivalent to the French norm which is precisely measured for each adult and child occupying the residence. These new regulations do not allow the inclusion of family allowances as part of income, thereby targeting families wanting to bring in children. It is more difficult for a woman to show that she can support a partner without recourse to public funds, particularly if she has children, since women generally earn less than men and immigrant women less than nationals (Harzing 1995). Women applicants have generally had to rely on their extended family to provide accommodation and income to meet the legal requirements.

All states impose a period during which the spouse is dependent for residence status on the partner. This varies from one to three years, although in Spain, the socialist government introduced a rule making it indefinite. During this time, the dependent spouse is liable to deportation if the marriage breaks down. It can mean that women are tied to failing, and sometimes violent, marriages in order to maintain

their right of residence and that of their children. A report for the Newham Asian Women's Project (1993) in London claimed that the "one year rule" has become a tool of control which can be used to threaten vulnerable women. According to the group Southall Black Sisters (SBS), which campaigns against this rule in Britain, in the eighteen months to July 1995, 755 women were threatened with deportation because of marriage breakdown, of whom 512 were fleeing domestic violence (SBS 1997).

Most states grant the right to work to family members entering as dependants. Ireland, however, refuses to grant preferential right to work for family members nor is it automatic in Spain. Germany has allowed it since the *Aliens Act of 1991* was passed by the German parliament, but the issue of a work permit is conditional on the state of the labour market. During the period of "probation," spouses are not entitled to claim benefits or have "recourse to public funds." This reinforces dependency, forcing many women into illegal work.

Women asylum seekers face particular problems in bringing in family members. With convention status now granted in a tiny minority of cases, many have insecure legal status. Most European states offer some form of residence on humanitarian grounds to asylum seekers who they determine do not meet the criteria of the convention, but for whom it would be unsafe to return. This status is known as Exceptional Leave to Remain (ELR) in Britain; or *Duldung* (tolerated residence) in Germany. The social rights attached to this status vary, as does the period and security of residence permitted. There is, however, no general right to bring in families, and immediate family reunion is generally offered only in extremely limited cases. Finland, which grants a tiny number of convention statuses, and Sweden are the only countries which allow it unconditionally. In other states, refugees must wait for a period of stipulated residence, for example, in Britain it was four years, after which they may apply on the same

Table 1: Family Reunification and Formation in France, 1990–1995

Year of Entry	Family Reunion	Spouse of French Citizen	Parent of French Child	Family of Refugee
1990	36,949	15,254	3,080	3,200*
1991	35,625	18,763	3,146	1,246
1992	32,665	19,045	2,986	1,065
1993	32,421	20,062	2,834	1,778
1994	20,645	13,145	1,749	776
1995	14,360	13,387	1,921	749

* Likely to be an overestimation.

Source: Tribalat (1996; 1997).

basis as legal migrant workers. These conditions often pose insuperable barriers to refugees, few of whom are able to find secure employment in their country of exile (Liebaut and Hughes 1997). Women, particularly those with children, are least likely to be employed, and are unlikely to be able to call on extended family networks in order to support them in meeting the criteria.

The pattern of change in family reunion policy in the 1990s has been uneven. While Denmark increased the period of residence for the spouse in 1992 and restricted rights of parents to join children, others such as Germany eased some requirements in the early 1990s. In general, immediate access to employment for those joining a migrant with long-term residence status has been eased. The continuing importance of formal citizenship status was, however, starkly illustrated in January 1997, when the German government introduced new visa requirements for foreign children of resident migrants travelling to Germany to visit relatives (*The Guardian* 1997). Overall, the imposition of more demanding conditions for family reunification and formation are likely to reduce the numbers entering under this category. French statistics certainly confirm the efficacy of such changes in legislation from 1993 to 1995 (Table 1).

Conclusion

European integration has created a momentum towards ever tighter restrictions on the entry of outsiders, a project eagerly taken up by many state and regional authorities within the European Union. The recent intervention of the EU to harmonize conditions of access to family reunion of Third country nationals is in general producing minimum common-denominator guidelines. As "traditional" family structures in Europe increasingly break down with more women becoming economically independent of men and more people living outside marriage relations, immigration rules have enforced an ever stricter adherence to formal marriage as the basis for migration. Attempts to derive principles of family reunion from international conventions on the right to family life have been subordinated to obsessive concerns to control immigration and secure state borders. Immigration policies in Europe in the past two decades have been based largely on the assumption that immigrants are a problem to be kept out if at all possible, and to be allowed in only in exceptional circumstances.

Many refugees and migrant women have become active in campaigning with others within Europe to challenge these rules which undermine their independence. The most urgent issue is

to end women's dependence for residence status on husbands, which creates and reinforces unequal relations of power and often abuse and violence. There also needs to be a deeper understanding of the changing conditions of family reunion and its gender dimensions. Refugee women in particular face immense difficulties in accumulating the ever more substantial resources necessary to bring in family members. Whilst a number of comparative European studies have sought to render the issues facing black and migrant women more visible, and in giving them a voice (Hoskyns 1996), the European Union's policies on sexual discrimination have paid little attention to black and migrant women.

Our discussion in this paper has concentrated on the gendered conditions of entry to European states. Clearly these conditions have major implications for women's access to social, political and economic rights within Europe. Recent changes in government in France and the United Kingdom have brought some respite in the barrage of repressive legislation targeting family migrants and asylum seekers. It is likely that within the next few years there will be increasing alignment of the rights of long-term legal non-nationals with those of European citizens. However valuable a *Charter of Immigrant Rights* (Migrants' Forum 1987) including a wider right to family reunion may be (Moulier Boutang 1993/94), it leaves the plight of the undocumented and insecure unresolved. It is unlikely that major legislative changes will be implemented without a far more positive evaluation of immigration, which would recognize the contribution of immigrants to economic, social, political and cultural life in European, and be based on securing rights as well as controlling immigration flows. ■

Notes

1. Unpublished information from the British Home Office.
2. This was rescinded in 1995.
3. The existence of children was allowed as proof of the genuineness of the marriage from 1992.

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Struggling for Rights: African Women and the "Sanspapiers" Movement in France

Cathie Lloyd

Abstract

This article considers the political impact of recent migration of women from West Africa to France in the context of draconian controls (the Pasqua Laws). It outlines the main characteristics of both the migration and the legislation, and analyses the principal features of the eighteen month dispute for the legalization of undocumented workers which has become known as the "lutte des sanspapiers."

Précis

Le présent article analyse l'impact politique de la migration récente des femmes d'Afrique de l'Ouest vers la France, dans le contexte de contrôle draconien actuel (lois Pasqua). On y décrit les principales caractéristiques de la migration et de la législation et on y analyse les principaux aspects des dix-huit mois de lutte pour la régulation des travailleurs sans pièce d'identité, connus désormais sous le nom de "lutte des sanspapiers".

The position of African migrant workers in France has changed radically over the past twenty years. In the post-war period, a largely male contract labour force was living in hostels largely segregated from the rest of the population. Today, while the recruitment of migrant labour has stopped, family reunification has meant that their expectations and needs in France have changed. Women are playing an important part in calling for the recognition of their rights as a community in France. At the same time, immigrants

have lost many of their entitlements to welfare benefits and new categories of people without rights have been created.

There are some 140,000 West African immigrants (mainly from Mauritania, Mali and Senegal) living in France today. Since the 1970s, people have migrated to France while maintaining close ties with their homeland, sending back considerable sums in remittances to support local communities and development projects. The West African communities which have emerged exist on a contested cultural and political terrain. In order to remain in France, they have endured considerable hardships.

The participation of African women in struggles for rights in France has had a major impact in changing the way in which their community is perceived. However, this is not a straightforward process because their family relations and personal status may be defined in terms which are acceptable to the French establishment. Antiracist and solidarity associations also offer political opportunities through which women may make an impact even though they may not have formal political rights.

Composition and Characteristics of West African Migration to France

Government figures show some 140,000 people (including women and children) from Mali, Mauritania and Sénégal in France (*La Croix*, 10 September 1996; *Le Monde*, 24 September 1996). Compared with other immigrant populations in France, the West African presence is small. For instance, the combined figure for Algerian and Moroccans in 1992 was 869,854 and for French citizens from the DOM-TOM, 339,600.¹ By 1990, women comprised 41 percent of migrants from sub-Saharan Africa, some 58 percent of whom

are economically active (Institut national de statistiques 1992).

As a result of historical links formed from French colonial interest in Africa, there has been a small-scale West African presence in France for many years. Migration has long been an important source of revenue for villages in West Africa (Quiminal 1991). It is common for the community to save up for the fare to send young men to work in France. Reciprocity is central to this arrangement: in return for the chance to travel, the emigrant is expected to send back remittances to assist the whole community. With such money, towns and villages in West Africa can construct wells and water supplies and build dispensaries and other public buildings. It is estimated that at current prices, one man working in Paris can send enough home to West Africa to sustain fifty people (*Le Monde*, 18 August 1996; *Libération*, 25 September 1996).

The single men who went to work in France in the 1960s and 1970s constructed networks based on family, village or ties of friendship which helped to mitigate the austerity and isolation of their lives in hostels. They only saw their wives and children when they returned home for holidays, which was limited because of the high cost of the return fare to France. Since the French government restricted immigration from the early 1970s, it became increasingly difficult for new migrants to replace those who had already spent time in France. The legal right to stay in France had been bound up to a requirement to have "adequate" housing since the *Marcellin-Fontanet* circulars (1972) which required employers to provide certificates of housing and employment, thus placing workers further in the power of their employers. Similar

Cathie Lloyd, Ph.D., is Director of the Centre for Cross Cultural Research on Women, Queen Elizabeth House, University of Oxford, Oxford, United Kingdom, and a member of the National Council of the Mouvement Contre le Racisme et Pour l'Amitié entre les Peuples (MRAP) in France.

regulations were used later as criteria for family reunification.

Immigration controls acted as a "pull factor" in the mid 1970s, encouraging families to come while they could. There was the additional inducement of rearing a family in France with the benefits of a French education and employment opportunities, and until 1993, children born in France could automatically become French citizens under the nationality laws (*Libération*, 10 August 1996). As families arrived, there was greater pressure to obtain decent housing, although according to the 1990 census, 85 percent of West Africans were still living in hostels.

Family reunification meant that wages were stretched still further to maintain families in France while also meeting commitments in Africa. On arrival in France, many women were more dependant on their husbands than they had been at home. West African men had mainly been employed on short-term contracts in low paid, insecure manual occupations, cleaning in public transport and streets, or perform manual tasks in factories. The tertiary sector has become increasingly important, and many women who work are employed in hotel and catering jobs. The men tended to take charge of the household economy because of their command of the French language. However, women have rapidly set up trading and organizations for economic solidarity through savings groups (*tontines*), which were also used to engender friendship and community networks (Institut Panos 1994; Nicollet 1994).

Earlier Struggles for Decent Living Conditions

In the past, African migrant communities had attempted to make their lives more bearable in France in different ways. They established structures within the hostels by which they could help one another with necessary purchases and to channel remittances back to their villages (Jones 1991; Quiminal 1991). When, in 1975, the French authorities increased hostel rents, many

hostels declared a rent strike which lasted for several years. Although rents were the precipitating factor, the dispute was also about ending the degrading conditions of life in the hostels, and for the recognition of immigrant representation in their daily management. The dispute became embroiled in the internal conflicts of the French left, but it did mark an important early stage in the recognition of the African migrant community in France (Freeman 1979; Miller 1981; Wihtol de Wenden 1988). In many ways, it paved the way for family reunification not least by establishing community structures which could relate to French political structures.

As family reunification was taking place, there have, however, been serious material difficulties which have given rise to a number of disputes about housing. One action in particular, in which a tent village was set up at Vincennes (on the outskirts of Paris), was initiated by a group of women who could no longer bear the sordid conditions in which they were housed. The majority of people in the Vincennes protest were women and children and they made a major symbolic impact by bringing their daily lives into the public arena. The visibility of women and children began to challenge media stereotypes of the African as male migrant workers (*Le Nouvel Observateur* 1992). However, this potential source of inspiration for humanitarian support was not fully exploited by those in charge of the negotiations with French housing authorities, and the tent city was disbanded as winter approached.

The Sanspapiers

In 1993, legislative elections returned a right-wing National Assembly to government, and a second period of cohabitation began with socialist President Mitterrand. In 1995, the rightward shift was confirmed by the election of the neo-gaullist Jacques Chirac as President. The right had been seriously divided over the attitude to take towards the extreme-right Front National. In 1993, the Minister of the

Interior, Charles Pasqua enacted a series of restrictive measures on immigration which were complemented by rigorous identity controls, and a reform of the nationality code. This meant that young people born in France of foreign parents were no longer automatically French citizens (Groupe d'information et de solidarité avec les travailleurs 1995; *Libération*, 30 April 1993). These measures enormously increased the amount of law, circulars and decrees which regulated the lives of foreigners in France. They instituted a regime of suspicion, enabling mayors to make an investigation before permitting marriage between a French citizen and a foreigner (*Libération*, 8 June 1993). The laws created new categories of people who were not entitled to full residence permits and all the attached social rights, but who could not be deported because they were the parents of French children. Ambiguity and arbitrary administrative measures gave rise to many cases where people who had been living and working legally in France for many years found themselves denied a legal status and at risk of deportation. Their position was aggravated by a virulent media debate against "clandestins," who were spoken of in the same breath as crime, drug-dealing and terrorism in broad political discourse.

This is the context of the *sanspapiers* protest which began in March 1996. Though not directly a housing issue, it arose in the context of an escalation of housing disputes organized by the Droit au Logement (DAL), a housing rights campaign which specializes in direct action, occupying empty buildings and using publicity to make it difficult to evict them. Their action at the rue du Dragon, in the Saint Germain area of Paris during 1995, held the media headlines with its imaginative and theatrical campaigning, and linked the campaigns for the rights of immigrants with those of all homeless people (*Droits Devant!* 1995).

On March 18, 1996, a group of 300 West African families occupied the Church of Saint Ambroise (Paris XI) as

a way of claiming their rights to residence papers. They were rapidly evicted from the church at the request of the local priest. About forty Malien men were arrested, some of whom were deported. Over the next few months, the families lived in a succession of local buildings, owned by the church, trade unions and later the radical theatre La Tempete at the Cartoucherie in Vincennes. They used this nomadic existence to broaden their basis of support among radical media workers and trade unionists. At the beginning of April, the protesters were joined by a "college of mediators" comprised of eminent French "personalities" including lawyers, an ex-ambassador (Stéphane Hessel) and academics (such as Jacqueline Costalascoux, Pierre Vidal-Naquet and Laurent Schwartz). They acted as a bridge between the *sanspapiers* and the government to persuade the latter to suspend deportations, and to negotiate a humane outcome. They insisted that the *sanspapiers* were not clandestine immigrants because they had not entered France illegally, but had lost entitlement to papers because of changes in the law. About a month after the beginning of the dispute, eight people began a hunger-strike. At the same time, the mediators assisted the protesters in collating files with which they could make the case for regularization, and the government began to study them.

During the summer, the movement grew, with new groups of *sanspapiers* developing in different parts of France. At the beginning of the holiday period, when political France usually closes down, the main body of protesters took refuge in the church of Saint-Bernard in the 18th *arrondissement* of Paris. This was considered to be a safe place: the local parish priest supported the protesters, the 18th *arrondissement* is an area where many immigrants live, and there are local associations which could be expected to help. Trade unionists and church congregations continued to organize solidarity vigils and material support while the government remained intransigent, refus-

ing to consider any change in the criteria for regularization. After a meeting between the Prime Ministers office and the mediators in August, the church of Saint Bernard was unexpectedly raided at dawn on the 12th of August by the CRS riot police (Compagnie régionale de sécurité), and hunger strikers, children and mothers were evicted.

If the government had hoped that the raid could have passed unnoticed during the summer holidays, they were mistaken. There was a media furor, and film stars such as Emmanuelle Béart were photographed being dragged out of the church chained to members of the African families. Public opinion responded to the breach of the sanctity of the church, the legitimization of the protesters by media personalities, but first and foremost, to the sight of mothers and children being terrorized by the intimidating and unpopular CRS.

Madjiguène Cissé, one of the spokespeople for the protesters, has described how the women kept the protest going despite the men's discouragement. Men were ready to disperse the protest on several occasions. Cissé (1996, 12) explained how at first the men did not allow women to attend the meetings to discuss the conduct of the protest, and how, through their own women's organization, they developed the resources to insist on such participation. The West African women played a prominent role in giving interviews to the press about how they came to France with their families, and appealing to human sympathy and solidarity by revealing the impoverished conditions in which they were obliged to live. Many of the women interviewed had been left alone in France because their husbands had been deported, and they now faced destitution and isolation, unable to speak the French language fluently. The resources of educated women such as Madjiguène Cissé, who has a masters degree in German, has proved crucial (Cissé 1997). Cissé revealed herself to be a talented orator, who, in defending herself and her colleagues

against deportation, reminded the tribunal of the historical links between France and Senegal, the role of the *Tirailleurs Sénégalais* in defending France during two world wars, and the long history of labour migration. She referred to the role of women in the railway workers strike of 1947, and more recently, in protesting against the conduct of elections in 1988 (Cissé 1996; Sembene 1976). When asked why she refused to give her name in court, she replied that she had forgotten that she had a name because she had not been treated with the respect due to a human being.

There were many positive images of women in the press: West African women were portrayed as suckling babies, wearing colourful clothes, and dancing at the front of demonstrations. They were depicted as not necessarily confined to the household, but often shown as leading street demonstrations and rallies (Bataille 1996). Above all, women as mothers challenged the criminalized stereotype of "clandestin." They could be seen as disrupting the "normal" public/domestic division which underscored gender relations in political life to the detriment of women (Rosaldo and Camphere 1974). Public opinion was frequently reminded that many of the children in the *sanspapiers* protest were legally entitled to French citizenship when they reached the age of sixteen. Protective attitudes towards children and respect for family life could come into play. This is often successfully used in French immigration hearings to assert the right to family life under article 16 of the *United Nations Universal Declaration of Human Rights* (Prencipe 1994).

This way of using the family has given rise to some disquiet among the *sanspapiers* and their supporters who are aware of the tendency for the family to be defined as the Western-style nuclear family. If immigrant families are given a privileged status, there was a danger that other immigrants would be seen as less worthy of support. So, in recent statements, there have been attempts to correct the emphasis by

stressing the rights of single people (usually meaning men), to a stable personal life (*Plein Droit* 1996, 1–2).

The *sanspapiers* action took place at a moment when support organizations were well prepared to act because they seemed to embody all the anticipated problems with the Pasqua law of 1993. It was therefore possible to translate their protest into mutually acceptable political demands. The mediators helped to take the case of the *sanspapiers* into formal political and legal channels by attempting to negotiate with the government on the basis of class actions, rather than individual cases, which might have been divisive. The issue was expanded in interaction with trade unions by linking the insecurity of the *sanspapiers* and their families to broader social insecurity, which was threatening many people because of the Chirac government's plans for privatization in order to meet the Maastricht EMU convergence criteria. To great applause, the *sanspapiers* led the march of 100,000 public sector trade unionists against privatization in October, 1996. Their links with associations for social justice, especially in Senegal and Mali, were exploited during the visit of the Minister for Cooperation (Development) to those countries in September, enabling French newspapers to publish detailed information about the contribution which migrants made to the development of their countries of origin, and to express concern that the image of France in the world was not enhanced by the spectacle of women and children being evicted from a church.

Since the election of a new socialist government in June 1997, a new circular has been issued instructing officials to re-examine the entitlements of "irregular foreigners" (Ministère de l'Intérieur 1997). While legislation is promised for the autumn, at the time of writing (July 1997), many solidarity organizations are overwhelmed by applications from people hoping for regularization. Their reaction is to discourage over-optimism, and to attempt to negotiate a difficult line

between helping individuals without encouraging divisions. In the present circumstances, it will be difficult to sustain a united campaign.

The *sanspapiers* and their supporters aimed to change the terms of the debate about immigration in France. This meant going beyond the political consensus in regard to the idea of "closed frontiers," to argue for a more realistic approach which accepted that immigration will continue to take place. The *sanspapiers* dispute threw new light on how ordinary people can find themselves "without papers" even though they had entered France legally, they had, nonetheless, fallen into the category of "illegal" because of the administrative complexity arising from the Pasqua laws. The dispute has succeeded in voicing the personal experiences of women and men who have fallen foul of immigration controls. The *sanspapiers* website (in English, French and Wolof) exemplifies this very broad approach to political struggle.² The protest has used this and other media to inspire similar actions on behalf of undocumented workers in Europe (specific examples would include the Netherlands, Spain and the United Kingdom) and in North America. ■

Notes

1. The French Overseas Dominions and Territories are mainly in the Caribbean. Their inhabitants are full French citizens.
2. The website is at: <http://bak.net/pajol/fr>.

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Refugee Stories: Constructing a Bosnian Girl's Identity in Exile—a Case Study

Eija Asikainen

Abstract

The breakup of Yugoslavia turned into a violent civil war in Bosnia in the summer of 1991. The war did not begin as ethnic conflict, but ethnic traits were defined and collective memories were manipulated to mobilize people and to justify the violence between groups. In the case of Bosnian refugees, the questions concerning ethnicity and identity are especially important. The objective of this paper is to discuss the constitution of the refugee identity of an adolescent Bosnian girl in the context of exile. The research methods used were collection of refugee stories and participant observation. By collecting refugee stories, it is possible to examine the processes of identity constitution and the flexibility of identities.

Précis

La partition de la Yougoslavie a entraîné une virulente guerre civile en Bosnie à l'été 1991. La guerre ne s'est pas amorcée comme un conflit ethnique, mais des caractéristiques ethniques ont éventuellement été invoquées, et la mémoire collective a été manipulée pour mobiliser les populations et légitimer la violence entre groupes. Dans le cas des réfugiés bosniaques, les questions d'ethnicité et d'identité sont particulièrement sensibles. Le but du présent article est de procéder à une présentation de l'identité de réfugiée d'une jeune adolescente bosniaque dans le contexte de l'exil. Les méthodes de recherche utilisées ont été la collecte de récits de réfugiés et l'observation directe. La collecte de récits de réfugiés a rendu possible l'examen des processus de constitution d'identité et la flexibilité de ces identités.

Eija Asikainen is a researcher and Ph.D. candidate at the Faculty of Education, the University of Joensuu, Joensuu, Finland.

Introduction

The breakup of Yugoslavia resulted in a violent civil war in Bosnia in the summer of 1991. In the media, two main approaches were used in reporting and explaining the events in Bosnia. The first approach explained the war as the rise of centuries-old hatreds. According to this line of thought, people in Bosnia-Herzegovina have always hated each other, but tolerance and coexistence were imposed by the communist regime. The alternative idealistic explanation, however, conceptualizes Bosnia as a multicultural society in which the diverse religious and ethnic groups lived together in peace and harmony, and did not classify themselves in terms of "Serb," "Croat" or "Muslim." Presumably neither of these explanations was true. Both tolerance and prejudice between individuals and between different groups existed in Bosnia. The attitudes towards religion and ethnicity depended on the sociocultural background in which the person had grown up and lived (Bringa 1995, 3). The conflict resulted from political, economic and anthropological factors interacting in an unfortunate way. The creation of enemies was a prerequisite for war, and this was done by transferring latent tensions into acute ones and using the media to create and maintain existential insecurity. The war did not begin as an ethnic conflict, but collective memories were manipulated, and ethnic traits were defined and used as a weapon to justify violence towards other groups. Nationalism was offered as an answer to the search for identity and the crisis in the system of morals and values (Radosevic 1996, 66).

This discussion shows that ethnicity was an important factor in mobilizing people in the Bosnian war. The war was organized elsewhere, but with

nationalist manipulation, people living in the villages were involved in the war to fight for their villages and their families. Ethnicity is an important element in an identity and life history of an individual. In this paper, ethnicity is seen as an ethno-religious affiliation. It is a process that is created, manipulated and negotiated during the life history. Identity is seen as constituted and reconstituted by narrative that shifts over time, place and audience.

The first Bosnian Muslim refugees arrived in North Carelia, Finland, in the autumn of 1992, and in the spring of 1993. These refugees came from villages in Northern Bosnia, an area that under the Dayton Peace Agreement remained under Serbian rule. This refugee group was placed in a rural area in close proximity to local people, for instance, on farms. The University of Joensuu organized a research project, the objective of which was to study the adaptation of this refugee group. The research project was divided into three parts: the first part addressed the social networks of Bosnian refugees and their integration into a Finnish community, the second focused on the villagers' attitudes towards Bosnians, and the third looked at the education of Bosnian children. Among Bosnian refugees, there were children aged 12–15, and the municipality organized their education by setting up an elementary instruction group for them for six months.

This paper came out of my thesis study, in which I described the initial period of the daily life of Bosnian children at school, and the social interaction in the group by means of qualitative methods. Through the description of everyday life, I tried to find out how the goals set for the education of refugees were achieved (Asikainen 1994).

Despite the "good will" and the goals emphasizing the importance of preserving immigrants' own language and culture, the initial period seemed to be a process in which the contradiction between the goals and the resources for reaching them directed the work of the people dealing with the education of Bosnian children. In their daily work, the goals of the workers were changed to emphasize the adaptation of Bosnian children into the Finnish school and society. The curriculum, resources and daily work constitute a whole which supports the aim to assimilate refugee and immigrant children into Finnish society. These results themselves were not surprising, and my research process revealed the questions and problems related to refugee identity.

The Bosnian refugee children and adolescents have been in Finland for four years. My field study focuses on adolescent girls of this refugee group. The data collection methods I used include the collection of refugee stories, and participant observation. The objective of my study is to examine the constitution of identity in exile, in particular, the use of ethnicity in the constitution of social identity. In this paper, I will first discuss the refugee experience, and second, the narrative constitution of identity. Through an episode in seventeen year old Hajra's story, I illustrate a narrative constitution of refugee identity as an alternative expression of the identity of an adolescent girl.

Refugee Experience

War changes people in profound ways. It changes their perceptions of themselves, other people and the world. The threat in a war is first of all external, but the effects of breaking up internal security and the changes in identity influence people's lives more profoundly, and are more difficult to process. Refugees experience loss, culture change and regeneration. Flight involves insecurity and instability, and refugees have to adjust to rapidly changing situations, for instance, residence in refugee camps and resettlement

in places with alien cultures. In exile the refugees are safe physically, but the war affects their life continuously through the experiences of violence, escape and exile. Hajra told me:

When we came to Finland, we immediately asked if we can go back when it is possible. They said, "You can go back, but you have no place to go." My father says, "When peace comes, we can go back, but where? We have no place to go. We do not know where to go and where all our domestic animals have gone ..." Father always said, "We can go back tomorrow, or the next day, but we can't go back, because there is no peace."

The Bosnian war contributed to the increase in the awareness of ethnicity and the ethnoreligious affiliation of the Bosnian Muslims. To the generations who grew up in the fifties and sixties, ethnicity (for example, names that reveal ethnoreligious affiliation) was not an important marker of identity and family background. But in the eighties, it started to become more important for young people (Bringa 1995, 3). During the war, ethnic groups and ethnic traits were said to be the reason for the violence. As discussed before, ethnicity and "ethnic group" were redefined, and they were used as a factor to mobilize people. History was rewritten in Serbian and Croatian writings in a way that made the Muslims alien: we have always been here, but the Muslims were not until 1400s (Fine 1993, 2). Nationhood was defined as a homogeneous group, which has common roots and the right to a certain defined area.

Thus, the Bosnian war and exile caused by war, produced homelessness, ethnicity and new identities. War also produces a sense of otherness and forces people to see diversity and cultural differences (Mortland 1994, 8). Hajra talked about the atmosphere in her school just before war started, and the attitudes of her classmates towards her:

We had many (Serbian children in our class) because the village was their village, and we used to go to school there and study the Russian language. The village in which my

aunt lived they called it K. There were more Muslims than Serbs, but where we lived, there were more Serbs than we Muslims were.

I asked if they had talked about the war with their classmates:

To us they do not tell anything, they say they talk with each other, those Serbs. To us they do not tell anything. When we came to school, they stayed silent, but they talk with each other. But we are listening, we listen to what they say and what their parents say ...

Hajra said that before the war, and before they told it on TV who is a Muslim and who is a Serb, they did not know whether someone was a Serb, a Muslim or a Croat, and they all used to play together. Yet when war came, they learned to know.

Narrative Constitution of Identity

People tell stories all over the world: tales, memories, rumours and jokes, true stories, personal experience narratives and family stories. Stories and narratives are accommodated to the context, which both create and restrict these narratives. In the case of refugees, refugee stories are told, for instance, in situations where explanations for being "here" (in exile) are needed.

Narratives are told for different reasons. For example, people want to share their experiences and create a sense of togetherness, or they want to organize their experiences. The narratives told in the family context are also told to create family identity and an identity for the members of the family. Life history narratives, in particular, create and recreate a person's identity (Stahl 1977, 33). As discussed before, narratives are used in a war, for instance, to mobilize groups and to justify the action.

In this paper, narrative is considered to be an ontological part of social life. People come to know, understand and make sense of the social world through narrative. They tell narratives for themselves and for other people about themselves, about other people and about different kinds of events.

People create their social identities through narrative. We come to be who we are by being located or placing ourselves in social narratives (Somers 1994, 606).

In narrative constructions, we can distinguish four different features which are particularly relevant to the social sciences. These are:

- 1.) relationality of parts,
- 2.) causal emplotment,
- 3.) selective appropriation, and
- 4.) temporality, sequence and place.

Together, these dimensions suggest that narratives are constellations of relationships, embedded in time and space, constituted by causal emplotment. Unlike the attempt to produce meaning by placing an event in a specified category, narrativity precludes sense-making of a singular isolated phenomenon. Narrativity demands that we discern the meaning of any single event only in temporal and spatial relationship to other events.

The relationality of parts turns events into episodes, whether the sequence of episodes is presented or experienced in any chronological order. This is done by emplotment. Emplotment gives significance to singular events or independent instances and translates events into episodes. The plot is not necessarily chronological, but it is thematic. We can see the plot as a logic or syntax of the narrative. Another crucial element of narrativity is its evaluative criteria. We need selective appropriation in constructing narrative. We have to choose which events, experiences and social factors are important. A plot is thematic, and the primacy of some narrative theme or competing themes determines how events are processed, and what criteria will be used to prioritize events and render meaning to them.

Here, Hajra responded to my questions in regard to how she first recognized that things had changed, that things were not as they used to be:

It was first on TV, in the news, that they were coming, the Serbs. Then my uncle called and told us that there

would be a war coming, and that we would have to leave our home and come to Croatia and leave everything, home, the cows, etc. Father told us that our uncle was lying that we couldn't go there, and why should we? And that the war was not coming. Mother visited the town, and there all the Serbian women said that the war was surely coming, maybe tomorrow or the next day. They all knew, but we didn't know anything. Then we went to school, we saw a helicopter that brought soldiers and guns. The guns they gave to our neighbours, who were Serbs. We had seen this many times, and we told our father and mother. Our parents went to see and they saw the guns and everything, but father said that surely they gave the guns to our neighbours, because they were in the army. He didn't think that the war would come at all. But our mother had understood that the war would come. My sister had heard all the classmate talking in the school, that the war was coming.

In Hajra's story, we can say that one thematic plot is Hajra's sense of being made invisible and a victim. Hajra was a good pupil. The story presents a picture of a child who sees threatening things happen and does not understand what is going on. Repeatedly Hajra says that they did not know anything; the Serbs did know but did not tell Hajra or her family. Hajra's classmates used to talk and play with Hajra, but when the war started, they ignored her, because she had been revealed as an enemy through the news on TV. Hajra's parents had become victims; they could not believe the war would come to their village. Hajra and her parents lived their daily life with their neighbours, who were Serbs; they worked together and celebrated together. When war started, they were made alien by their neighbours:

Every day they [neighbours] said to us, "The war is not coming, peace will come, we won't shoot you. You can come to our home when the war comes." And when war started, they came and killed our father, the one who had said that the war was surely not coming.

Hajra's story serves as an alternative expression of identity in Hajra's social networks and identities in exile. Hajra told her story to me after her three-year stay in Finland as a refugee. When she left Bosnia, she was fourteen years old. Hajra also told other stories about her life in Finland as a Bosnian girl, or as a North-Carelian girl.

We talked about marrying and dating, and I asked her whether Bosnian girls could date Finnish or Bosnian boys. She told me:

Well, Bosnian boys. We can go (out) with Finnish boys, but we do not know Finnish language or culture. But with Bosnian boys, we can talk our own language. I have a boyfriend in America, and he might come to Finland, but I don't know when. He wants me to marry me, but I don't believe the day will come when I will get married. I always say, "You are lying, you cannot come here," and he says, "I can," every day he says "I can come ..."

I asked where Hajra had met him, and she said:

I have not met him, but he had seen me on videotape. He called here and asked who I was, and one girl phoned me and said, "There is a boy in America who would like you to be his girlfriend for he has no friends there or anything." "Well," I said to the girl, "you can give my telephone number and address to him." And now, he writes me and calls me everyday, and talks with me for about an hour.

I said: "Oh dear, it is expensive!"

Yes it is! Well, I said (to him), "It is expensive to call," but he said, "It is not expensive, for you are my girlfriend" ... But I don't understand ... I don't know where to go, whether to go ... One boy lives in Oulu, the other one in Mikkeli. I don't know whether to stay in Oulu, Mikkeli or go to America!"

Hajra is a beautiful young woman who goes to vocational school and plans to get married when she finishes school. She has Bosnian boyfriends in Finland and in other countries, and they call Hajra and send her presents. Hajra also talks about loneliness and

the jealousy of her peers, and problems between Bosnian families in North Carelia. The image of Bosnia seems to serve as a place to go to in her thoughts sometimes when daily life is too gloomy and difficult.

Once, when we were sitting at the kitchen table and she was telling me about her experiences and memories, I got the impression that she was looking at a film, or had discovered in her mind once again all that had happened. I wrote in my diary:

Hajra said that the war was bad, that many people had died, that they had lost their homes, gardens and everything. She looked sad and thoughtful. I got the impression that she had quickly discovered what had happened: Their life was like that there, having orchards and everything, but now she is here, living this life.

Conclusion

The concept of narrative identity emphasizes the subjectivity and the variety of identities. The narrative identity approach rejects the tendencies of identity theories to normatize identities and to categorize them. The narrative identity approach embeds the actor within relationships and stories that shift over time and place. Through refugee stories, we can find the identity of a refugee, which is enclosed with the experiences of both victim and survivor. Refugee identity is transnational. It is affected not only by former identities and culture, and present influences from the host country, it also includes refugees' relations to other refugees in diaspora. The refugee experience can serve as a mirror reflecting new and changing identities; and conversely, ethnicity can serve as a mirror to reflect the refugee experience.

We know what happened in Yugoslavia on a large scale: people had to leave their homes and flee to foreign countries. We also know that the media was used in conveying propaganda and mobilizing people. Hajra's story serves as an interpretation of the events, but it is also a story of the process through which an adolescent be-

came first a refugee, and then became aware of her own and of other peoples' ethnicity. Hajra was endowed with the identity of a refugee on the day she had to leave her home, and the identity of a Bosnian girl on the day she came to Finland. Hajra is very well aware of cultural differences and the problems which are caused by diverse values and norms. She has the criteria and experience to evaluate both Finnish and Bosnian culture and daily life.

Hajra tells her own story of changing situations and contexts. She uses these stories to organize her experiences and to produce the meaning of events. She also constructs her identity through these stories, and offers changing features or aspects of her identity for a changing audience. Fejös (1995, 86) contends that well-structured, epic form of narrative indicates the coping strategy and the use of the narrative in daily life. Hajra's story of escape is similar to the stories I collected from other Bosnian girls. The refugee stories and the stories of escape attest to the existence of the oral collective memory. They also indicate the process of subjective appropriation of history and the collectivity of it.

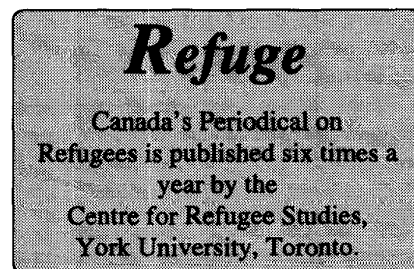
Although the refugee experience is traumatic and stressful, the process is also rejuvenating. Refugees have resources and coping strategies. By collecting refugee stories, it is possible to examine the processes of identity constitution and the flexibility of identities. It is important to express these features of refugees' identity and to make them visible. Narrative approach enables expressions of multiple subjectivities and identities that are not categorical, but rather, are changing and flexible. ■

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