Refugees, Race, and Gender: The Multiple Discrimination against Refugee Women

Eileen Pittaway & Linda Bartolomei

Abstract
This paper examines the intersectionality of race and gender in refugee situations, and the multiple forms of discrimination experienced by refugee women. It explores the notion of racism as a root cause of refugee generation, and the gendered nature of the refugee experience. The manner in which racism and sexism intersect to compound the human rights violations that refugee women experience is explored in the treatment of sexual violence in international and domestic law and policy; during armed conflict; in refugee camps; in countries of first asylum; and in countries of resettlement. Using a case study of one strand of refugee policy in Australia, it illustrates the impact of this discrimination on refugee women. The forthcoming World Conference against Racism offers a unique opportunity for this phenomenon to be addressed by the international community.

Résumé
Cet article examine la façon dont des considérations de race et de genre se croisent dans les situations concernant les réfugiés, ainsi que les multiples formes de discrimination qui frappent les femmes réfugiées. Il explore la notion du racisme comme cause primaire pour la génération de flots de réfugiés, ainsi l'aspect relié au genre de l'expérience des réfugiées. La manière dont le racisme et le sexisme s'entrecoupent pour aggraver encore plus les violations des droits de la personne dont sont victimes les femmes réfugiées est explorée dans un nombre de contextes, dont : le traitement de la violence sexuelle dans les régimes de loi et de politiques au niveaux international et domestique ; dans les situations de conflits armés ; dans les camps de réfugiés ; dans les pays de premier asile et dans les pays de réinstallation. Se basant sur une étude de cas portant sur une section de la politique sur les réfugiés en Australie, il illustre l'impacte qu'a cette discrimination sur les femmes réfugiées. La Conférence contre le racisme, qui doit se tenir bientôt, offrira une occasion unique à la communauté internationale de se pencher sur ce phénomène.

Introduction

More than 80 per cent of the world's refugees are women and their dependent children. Violence against women is rampant during armed conflict. It is manifested through involuntary relocation, as forced labour, torture, summary executions of women, forced deportation, and racist state policies denying or limiting public representation, health care, education, employment, and access to legal redress. Rape and other forms of sexual torture are now used routinely as strategies of war in order to shame and demoralize individuals, families, and communities. Resettlement policies actively discriminate against women on grounds of both race and gender. The gender blindness of the 1951 Refugee Convention and international law and domestic policy relating to refugee women has been recognized only relatively recently within the international system. The 1951 Refugee Convention does not recognize persecution based on grounds of gender as a claim for refugee status, nor is it clear that violence on grounds of gender can be considered as persecution. Rape has been recognized as a crime against humanity, a war crime, and an act of genocide in the Statutes of the International Criminal Court, but to date only thirty-two of the sixty nation states needed to ratify these statutes before they can become operational have done so.

Racism as a Root Cause of Refugee Generation

In an address to the Human Rights Commission in Geneva on March 21, 2001, the United Nations High Commissioner for Refugees, Ruud Lubbers, stated that "violations of human rights, racism, and xenophobia were to blame for the world's growing number of uprooted people."[1] Preparations for the World Conference against Racism (WCAR), to be held in Durban in September 2001, have provided a unique opportunity to address the issue of racism as one of the root causes of increased refugee flows in the international public arena. The Office of the United Nations High Commissioner for Refugees (UNHCR) estimates that there are some 21 million refugees and an additional 20 million internally displaced peoples across the world in more than forty countries.[2] Most wars are now intra-state rather than inter-state conflicts. Many of these civil wars are characterized by violence resulting from heightened ethnic tensions driven by economic goals.[3] These include disputes over access to natural resources and land, which intersect with goals of economic and ethnic supremacy, as evidenced through recent and ongoing conflicts in Sierra Leone, Angola, Fiji, and Indonesia.

There are multiple manifestations of racism in the experience of refugees and other displaced peoples. Refugees are forced to leave their country or community of origin because of a well-founded fear of persecution for reasons of race, ethnicity, or nationality, religion, political opinion, or membership of a particular social group. Once the conflicts that caused them to flee are declared over, often following the intervention of superpowers, racism can preclude safe return and integration of refugees back into the communities from which they fled. Despite this knowledge, repatriation is often forced on refugee communities by host countries and UN agencies unable or unwilling to sustain the financial cost of the refugee population. Internal armed conflict, generating large numbers of internally displaced peoples, is most often institutionalized racism and must be recognized as such.

As the flow of uprooted peoples increases, many states are increasingly reluctant to host refugees. Narrow definition and interpretations of refugees, as reflected in the 1951 Convention and the 1967 Protocol, often leave those discriminated against on the grounds of minority or ethnic status unprotected. Refugees are routinely demonized by Western countries and the media as "illegal immigrants" and "economic migrants."[4] This is despite evidence that the majority of people seeking asylum have a genuine fear of persecution if returned to their home country, and despite the acknowledged contribution made by refugees to their host countries over the years.[5]

The Gendered Nature of the Refugee Experience

At the preparatory committee for the World Conference against Racism held in Geneva in May 2000, a paper titled "Racism, Refugees, and Multi-Ethnic States" was presented. Prepared by five invited experts on refugee issues, at least four of whom were men, the paper details the many links between refugee issues and racism. Despite the fact that 80 per cent of the world's refugees are women and their dependent children, not once in the twenty-seven-page document is gender mentioned. Not once is the well-documented difference in refugee experience between men and women acknowledged or addressed. The experience and impact of racism during armed conflict is clearly a gendered experience: the majority of those who are killed or "disappeared" are men and male youths. This accounts for the refugee populations, who in the majority are women and their dependent children, who generally have been exposed to extreme physical violence.[6] Research has shown that the legal protections for women around the world, including refugee women who have experienced violence, are largely gender blind and do not address the reality of women's lives. Charlesworth and Chinkin[7] have argued that "the very nature of international law has made dealing with the structural disadvantages of sex and gender difficult."[8] Refugee women continue to be discriminated against in situations of armed conflict, in refugee determinations, and in resettlement because of their gender.

The special needs of refugee women have not been acknowledged within the UN system except in relatively recent years. Only since the thirty-fourth session of the General Assembly held in 1979 has there been a special emphasis on the urgent and particular needs of refugee women. Kourula[9] indicates that it was not until 1985 that the specific needs of refugee women were included as a separate agenda item at UNHCR's annual Executive Committee (EXCOM) meeting. In 1993 EXCOM Conclusion No. 73 (XLIV) considered the link between the widespread nature of sexual violence perpetrated against refugee women and their coerced displacement. This trend to single out the special needs of refugee women has continued ever since. However, "efforts to address the particular situation of refugee women have so far fallen short of the adoption of any legally binding international instruments singling them out as a specific group."[10] Despite a small number of judgments by refugee review tribunals

in resettlement countries including Canada, America, and Australia—which have accepted that in certain situations, for the purposes of the Convention, women can be considered as a social group—there has been strong resistance within the international community to accepting gender-based asylum as grounds for refugee status.[11] There have been some advances by UNHCR and in some domestic government policy towards recognizing the specific situation of women, demonstrated by the establishment of gender guidelines. There is, however, a general lack of political will to implement them, as evidenced by their ad hoc application. There has been little recognition of the manner in which racism and sexism intersect to doubly discriminate against refugee women in either international or domestic legal instruments and policies.

The Interesectionality of Race and Gender

International awareness of the way in which multiple forms of discrimination intersect to inhibit the empowerment and advancement of women has its origins in 1975 at the UN First World Conference on Women, and subsequent women's conferences, the last of which, the Fourth World Conference on Women, was held in Beijing in 1995. The conference outcomes document, the Beijing Platform for Action (BPFA), was adopted by all member states. It recognizes that factors such as age, disability, socio-economic position, or membership in a particular ethnic or racial group could compound discrimination on the basis of sex, to create multiple barriers for women's empowerment and advancement. In documentation for the World Conference against Racism, the Committee to Eliminate Racial Discrimination noted that racial discrimination does not always affect women and men equally or in the same way: "There are circumstances in which racial discrimination only or primarily affects women, or affects women in a different way, or to a different degree than men."[12] The United Nations Division for the Advancement of Women (DAW), in collaboration with the Office of the High Commissioner for Human Rights (OHCHR) and the United Nations Development Fund for Women (UNIFEM), organized an Expert Group Meeting on "gender and racial discrimination" to contribute to further understanding of this issue. This meeting provided an opportunity to explore the ways in which multiple forms of discrimination affect the lives of women. The report[13] of this expert meeting identified that the failure to address the "'differences' that characterise the problems of different groups of women can obscure or deny human rights protection due to all women." Although all women are subject in some manner to discrimination based on gender, this distinction is compounded for some women when gender discrimination "intersects" with discrimination on other grounds, which may include, among other things, race, class, and colour. This notion of "intersectionality" has been defined in the following manner:

> The idea of 'intersectionality' seeks to capture both the structural and dynamic consequences of the interaction between two or more forms of discrimination or systems of subordination. It specifically addresses the manner in which racism, patriarchy, economic disadvantages and other discriminatory systems contribute to create layers of inequality that structure the relative positions of women and men, races and other groups. Moreover, it addresses the way that specific acts and policies create burdens that flow along these intersecting axes contributing actively to create a dynamic of disempowerment.[14]

Non-government organizations (NGOs) around the world have documented the fact that the oppression women suffer because of their race, religion, caste, ethnicity, nationality, and other socio-political categories is aggravated by the discrimination they face because of their gender. As a result, women, more than men, are subjected to double or multiple manifestations of human rights violations.

The Intersectionality of Race and Gender in Refugee Situations

During armed conflict, women can become the targets of "ethically motivated gender-specific"[15] forms of violence. Ideological frameworks developed by extreme forms of nationalism and fundamentalism that reify women's image as "bearers of the culture and values" have led to widespread sexual assaults against women as political acts of aggression. Such acts of sexual aggression are often fuelled by race- and gender-based propaganda.[16] An additional intersect of race and gender is the forcible impregnation of females from one ethnic group by males from another group as a form of genocide. Women bear the direct impact of these actions. Racism, racial discrimination, xenophobia, and related intolerance have increasingly been used to incite armed conflicts over resources and rights within and between countries around the world.

The "othering"[17] of refugees—that is, regarding one or several sections of the community as "the other," or of intrinsically lesser value than the dominant culture or power holders—has increased, particularly in some countries in Europe where the concept of "fortress Europe"

has fostered a climate of xenophobia and racism. Theodor van Boven has identified "a climate and a perception that a priori regards a foreigner as an adversary, a rival, a competitor, or an adventurer who is a threat to prosperity, culture and identity."[18]

Refugee women are actively discriminated against on the grounds of their ethnicity and their gender. They are often devalued or "othered" on grounds of their race, and this racial discrimination effectively removes any need by the aggressors to respect them by gender. This effectively "others" them twice and makes them prime targets for rape, systematic rape, and sexual torture for the purpose of shaming the men of their communities.[19] Members themselves of patriarchal societies, women are also "othered" by their own communities, making this form of torture extremely effective, to the point where women are sometimes murdered in "honour killings" and are often rejected by their own communities because they have been "violated" by the aggressors.[20]

Women are raped to humiliate their husbands and fathers, and for reasons of cultural genocide. They are forced to trade sex for food for their children. They are raped by the military, by border guards, and by the UN peacekeeping forces sent to protect them. Rape and sexual abuse is the most common form of systematized torture used against women, and it ranges from gang rape by groups of soldiers to the brutal mutilation of women's genitalia.There is evidence of military training to commit these atrocities. In recent ethnic-based conflicts in Bosnia, Rwanda, Sierra Leone, and East Timor, rape and sexual violence have been used to target women of particular ethnic groups and as an instrument of genocide. Similar patterns are found in all armed conflict. In an exploration of racism, misogyny, and politico-military violence in the construction of Western modernity, Uli Linke cites a range of studies that have begun to explore the link between military patterns of rape and racial stratification.[21]

Refugee women who have suffered rape and sexual abuse report keeping their trauma secret from determining (immigration) officers for fear of being labelled prostitutes and being denied refugee status or visas on moral grounds. Such fears are well documented by UNHCR, Amnesty International, and many aid agencies working with refugee women.[22] A study conducted in Winnipeg, Canada, found that more than 50 per cent of refugee women who had been raped, and 94 per cent of other refugee sexual-assault victims, did not tell their refugee workers of their experience.[23] Far more sought help for psychosomatic symptoms related to the experience. Because the post-traumatic symptoms such as depression, loss of sleep, anger, fear of strangers, and feeling dirty are similar to those of other trauma, the root of the problem often goes unrecognized and untreated. There is still a conspiracy of silence surrounding the true extent of the problem, and until it is fully acknowledged women will not receive the services they deserve.

Refugee Women at Risk: A Case Study

An examination of the Australian Women at Risk Program, illustrates the racism inherent in much refugee policy.[24] This research, first undertaken by Pittaway and Winton in 1991 on behalf of the Australian National Consultative Committee on Refugee Women (ANCCORW), and revisited by Hercus, Ray, and Pittaway in 2000,[25] highlights the gulf between policy and practice, and the gender blindness that has led to the ongoing discrimination against refugee women in international law and policy.

The Women at Risk Program (WaRP) is designed to identify refugee women at risk of violence in refugee camps or during armed conflicts and to fast-track their removal to safety in Australia. Since its inception, the program has failed to meet its modest quota. In the first two years of implementation, less than a third of the annual allocation of sixty visas were issued each year, despite an estimated 16 million refugee women and children worldwide. In 2001 the program still remains significantly below quota. The research project aimed to discover why the identification of women at risk was proving so difficult. Interviews were conducted with UNHCR officials, workers in refugee camps, and officials at Australian posts in Southeast Asia. Several implementation problems were identified, such as a lack of information and poor communication between levels of management, but these hurdles did not explain an apparent apathy towards the program.

A potential key to the problem became clear after it was noted that a total of seven out of twenty-two senior male officials in Australia, Thailand, and Hong Kong interviewed for the project had all used the same revealing phrase to describe the difficulties of identifying refugee women at risk.[26] They described the trauma that some women experienced as "only rape," implying that rape or the likelihood of being raped was insufficient grounds for considering a woman for the WaRP. These officials used the phrase when asked whether they considered rape and sexual abuse to be grounds for referring women to the WaRP.

Their argument was that if a woman was complaining of only rape and sexual abuse, she could not possibly be considered a woman at risk. As one man commented, "If

only rape was the criterion, I could send you most of the women in this camp. It happens all the time, especially to the young single women, and we can't do much about it." A UNHCR official stated that rape was not grounds for refugee status, therefore it could not be grounds for the WaRP, and that to qualify for this program a woman had to be experiencing extreme forms of violence and not only rape. A third said rape was so common that it could not be seen as grounds for consideration and, anyway, that was how women got extra food (from the guards who raped them), and was therefore hardly likely to be classified as "extreme danger." The worst comment was that often what happened wasn't really rape anyway, because some women "exploited" their sexuality within the camp system in order to get favours from the guards. Another official commented that because it had often happened to women before they reached the camps, it was no longer an issue. And the final remark was that "it happens so often to these women that they get used to it, sort of expect it, and they don't see it as violence like being beaten up or tortured."[27]

The interviewees were asked if anyone talked to the women about the rape and sexual abuse. Most acknowledged that such conversation did not occur because the women were too ashamed or shy to discuss such issues with male officers. It was apparent from the research that in the camps there was no treatment or support for women who had been raped or sexually abused prior to arrival, and that there was little protection within the camps. Interviews with women and service providers in Hong Kong indicated that often camp security staff perpetrated abuses within the camps.[28] These comments highlighted not only insensitivity to gender but also racism, as they implied that refugee women were of lesser social standing and therefore of lesser value than those making the comments, who were mainly Anglo-Saxon. While it can never be proved, it can be hypothesized that they would not have made these comments about women from their own ethnic groups and class.

It is worth noting that the interviews conducted with refugee women in Australia and with the women in camps indicated that the rape of refugee women was not just the result of an opportunity that men seized when they found themselves in a position of power over vulnerable women. Much of the rape and sexual torture was planned and systematic. In camps it was institutionalized and a way of keeping control. These acts were undertaken with relative impunity. During conflicts, women were raped in an attempt to extract information, to shame communities, and to destroy the social fabric. The women were forcibly impregnated to destroy ethnic purity. They were often systematically tortured in a way that suggested that soldiers had been trained to do it; for example, the cutting of nipples with wire cutters after rape has been reported across Indochina and Indonesia. From Latin America come stories of genital mutilation with electric prods, with broken glass, and through the use of trained dogs.[29]

Apparently, despite much rhetoric about protecting refugee women, many people in positions of influence were unwilling or unable to accept rape and sexual torture during an armed conflict as a major problem. This has been well documented internationally.[30] While the rape and sexual torture of women had been noted as a component of the problem at the time of the original research conducted by the ANCCORW in 1991, it was not recognized at the time that it might be the key. It was only on reflection that the significance of the phrase "only rape" became clear. An incident at a meeting in Sydney further reinforced the importance of the realization. When informed of a case involving the pack rape of a refugee woman, a prominent cleric sitting on the board of a major overseas aid agency remarked, "I hope she enjoyed it!"[31] Horrifying though his statement was, this man voiced a very commonly held view of rape and sexual abuse, though perhaps he expressed it more blatantly than usual. This attitude, while not overtly expressed, was reflected in the comments of determining officers and their superiors in discussions about the WaRP.[32]

Because refugee policy is strongly linked to international human rights instruments, it was hoped that a solution might be found in using them. The researcher undertook a major literature survey in order to identify a solution to the problem of interpretation. It was found that the relevant human rights instruments did not adequately address the torture and trauma of refugee women. Not only did these instruments not provide a solution, they were part of the problem. The issue was not only invisible in Australian policy, it was also silent in the rest of the world. Until 1998, rape during conflict, which includes rape, systematic rape, and premeditated sexual torture, was not considered a crime against humanity, a war crime, or grounds for refugee status.

The literature survey identified the gender blindness inherent in human rights instruments, which is based upon the notion of "public" and "private" spheres in human rights. The "public" addresses the political sphere, the sphere most often occupied by men, especially in the developing countries, which are the biggest generators of refugee populations. The "private" reflects the domestic

sphere, including the sexual, the domain of most women, and as such is not addressed by human rights instruments. Because of anomalies in the human rights instruments, the rape and sexual abuse of women is seldom recognized as torture. The preamble of the Torture Convention acknowledges rape as torture, but the operating paragraphs in the directions to the UN Special Rapporteur on Torture refers to torture *and* rape. These semantics, these very minor changes in language, provide the basis for the dismissal of rape as torture. Judges have declined to accept it as the grounds for refugee status because "[it] is the common experience of women everywhere."[33] Many cases of judges and officials discounting the rape of refugee women and refusing the protection of refugee status on these grounds have been identified in Haiti, Kashmir, Tibet, Peru, countries in the Horn of Africa, and the former Yugoslavia. These cases are well documented; it is a universal problem.[34]

A classic case, cited by international human rights lawyers in their fight to change the legal recognition of the experience of refugee women, illustrates the issue. A man was tied to a chair and forced at gunpoint to watch his common-law wife being raped by soldiers. In determining the case for refugee status, he was deemed to have been tortured. His partner was not.[35]

From the understanding gained from the re-evaluation of the research findings and the literature survey, it became apparent that, if the needs of refugee women were to be recognized and addressed, there had to be change at an international level. The rape and sexual abuse of refugee women, during a conflict, in flight, or in refugee camps, had to be recognized as a war crime and be considered as persecution, and such a finding had to be reflected in international law and conventions. Without such recognition, domestic law and social policy designed to address the needs of these women, although grounded in international law, would constantly fail to fulfill their goals. This not only explained the failure of the WaRP. It also explained why the experience of refugee women had not been accepted and reflected in domestic policy. Gender blindness, patriarchal values, and racism combined to ensure that the experiences of refugee women were not acknowledged or addressed.

Manifestations of Racism in Refugee Policy

Throughout 1993, the escalating conflict in Yugoslavia and the resulting increase in refugee flows also highlighted the racism inherent in refugee policy. In the 1980s and early 1990s the majority of refugee women came from developing regions such as Indochina, Africa, Iran, Iraq, the Horn of Africa, and Central and Southern America. They were the "other," people of lesser international status than the major decision makers and powerbrokers in the world, subjects of pity and charity, rather than people with equal rights. In 1990 war broke out in Yugoslavia. Yugoslavia was part of Europe and accessible to Western media, and for that reason, from 1991 onwards, the international community learned more about that war than about any other in the world. The sexual abuse of the women, the rape camps, and the "ethnic cleansing" through the killing of males and impregnation of females in the three countries involved was nightly television news, inciting international outrage.

It is suggested that this outrage intensified because the women were Caucasian, and the villages and towns were obviously those of a developed country. The average person in the Western world could identify with the women and their experience in a way that had not happened before. Similar treatment of refugee women from developing countries was well documented and reported in the past, but never received this level of response. As an example of this reaction, AUSTCARE and UNHCR Australia started a major campaign to send "comfort packages" (containing sanitary napkins and articles of feminine hygiene) to women in the former Yugoslavia. Qantas freighted the goods free of charge, and it was reported as the most successful campaign that AUSTCARE had ever run. An African refugee, living in Australia and working with the researcher, commented wryly, "There have been African women experiencing what those women are experiencing for many years. Do they think that we don't bleed?"[36]

Acceptance of the magnitude of the abuse taking place and the numbers of women being raped and sexually abused was difficult, and the world then had to digest the fact that it was not just a handful of men perpetrating these atrocities. In the same way that it was difficult to accept that it was Caucasian women being raped, it was equally painful to realize that was Caucasian men who were raping them.[37] This realization challenged many men, who in some way identified with the collective blame, and women, who had to accept the fact that many men who find themselves in positions of power will treat women in this way. It was a strong statement about gender relations and was a difficult concept for many to contemplate. The fact that they were from ethnically discrete communities, and that the rape was racially motivated, was not acceptable to the Western world. For the first

time, the rape of women during armed conflict was considered a possible war crime.

The experiences of the women from the former Yugoslavia brought about a major shift in the acknowledgment of the experiences of women in conflicts. It brought the rape and sexual abuse of women in such situations to the public consciousness. Because the women were Caucasian, the Western world could identify with them. Because they had experienced similar forms of torture, other refugee women identified with them. This gave an impetus to the work of the International Refugee Caucus in its fight to have these issues addressed. However, public consciousness of the issues was not sufficient at that stage to move beyond compassion to reparation. The majority of women raped and sexually abused in the conflict in the former Yugoslavia were never accorded refugee status. The majority of those who have entered Australia and other countries as the result of these atrocities came on Special Humanitarian Visas. The lack of recognition that their experience was sufficient to warrant full international protection denied the gravity of the experience they had suffered.

Refugee Women, Racism, and Resettlement

Racism is not only a cause of refugee movement, it also continues in countries of settlement and resettlement. Gender discrimination is also entrenched in social structure. Refugee women, like many migrant workers, are frequently treated as second-class citizens in their countries of destination. Racist state policies of host countries in the West and the Asia-Pacific, particularly on labour and immigration, result in the exploitation of refugee and migrant women. They are discriminated against in terms of wages, job security, working conditions, job-related training, and the right to unionize. They are also subjected to physical and sexual abuse. When illegally employed, they have no access to labour laws. They are not given equal access to the law, nor are they treated equally under the law. Their employment opportunities are limited largely to domestic work or the sex industry, where their right to work, freedom of movement, reproductive rights, right to acquire, change, or retain their nationality, right to health and other basic human rights are violated. The result is that refugee women and their families are more vulnerable to religious, racial, and gender discrimination and exploitation.[38]

Their stateless condition makes refugee women and children easy targets for traffickers.[39] Trafficking has not been deterred by the imposition of restrictive and exclusionary immigration policies by host countries. On the contrary, such policies account for the increasing number of undocumented migrant female workers who have been trafficked or are most vulnerable to trafficking. Trafficking involves the recruitment, transportation, transfer, and harbouring of persons and is conducted by threat, use of force or other forms of coercion, abduction, fraud, and deception. The purposes of trafficking in persons include involuntary servitude—domestic, sexual, or reproductive—in forced or bonded labour in conditions akin to slavery. Refugee women, indigenous women, Dalit women, and women from ethnic minorities are some of the groups of women most vulnerable to trafficking. The extensive documentation of the exploitation of migrant and refugee women, especially from countries in the Asia-Pacific region, underscores the fact that migration and trafficking in women is a critical area of concern in the Asia-Pacific region, which must be included on the agenda of the World Conference against Racism.

Racism directed at refugee populations in resettlement countries often causes refugee women to remain silent about their experiences of gender discrimination and violence within their own communities. Often racism within the broader community exacerbates the pressure on refugee women to maintain their traditional roles in order to keep their communities intact. The problems of many refugee women remain hidden in countries of resettlement. The racial barriers that men may face in access to employment and education are concerns more frequently aired in the public arena. As a result, the prevailing discourse in many resettlement countries among refugee advocates is that refugee men find resettlement far more difficult than do refugee women.

Refugees face systematic discrimination on the bases of race, ethnicity, and gender in the process of selection for resettlement in third countries—most often developed countries with predominantly white populations. Refugees are selected for resettlement from situations of refuge in first countries of asylum. There is a marked trend for resettlement countries to give first preference to refugees most likely to "blend" into the host country. Therefore humanitarian response from countries of the North to refugee populations from the South is markedly different from response to refugees from the North. For example, in January 2000 the Africa News service reported the decision taken by the United States to terminate "family reunion" for refugees from seven African countries. According to American-based human rights groups, this termination did not apply to refugees from

Eastern European countries. Evidence of racism in refugee policy is further supported by figures quoted in the *Boston Globe*'s City Weekly section in December 1999, which indicated that since 1980 only 67,000 refugees from Africa had been admitted to the USA, while more than half a million had been accepted from Eastern Europe.[40]

Goodwin-Gill[41] has pointed out that as the numbers of refugees and asylum seekers has increased, many Western nations have introduced measures to deter entry, including immediate detention on arrival, the imposition of visa and transit requirements, and the fast-tracking of refugee determinations. These measures have been implemented to a large extent because the majority of those seeking entry have come from non-European countries. Countries have also responded by trying to regionalize the solutions, by keeping many of those in need of assistance within their regions of origin.[42] Yet racism remains inherent in this approach, for refugees in the South are most likely to be assisted with basic food and medical supplies, while refugees from the North are often offered resettlement in the North, and/or substantial assistance in the rebuilding of infrastructure. Such unequal response is justified on the grounds of cultural compatibility. The level of assistance is also usually tied to the economic relationships between the countries concerned, so that refugee-producing countries with few resources to offer countries of the North receive less assistance than those countries upon which the North has strong trade dependencies.

An example of this imbalance is the discrimination in some Western countries against the resettlement of African refugees, which is apparent in the differential treatment given to refugees from Kosava (Caucasians) and refugees from non-Caucasian backgrounds. Discrimination against the resettlement of African refugees is argued on the grounds that the difference in cultures could disadvantage refugees from the African continent. This, despite the fact that refugee flows from Africa are often a consequence of colonizers' imposition of their own culture, which seriously damaged the culture of the colonized. (Racist colonial policies often exacerbated the disadvantage experienced by women, for the sexual divisions of labour were used to support racial and class divisions of labour.)[43] It is also noted that single (widowed, separated) women with children are often denied access to resettlement services on the grounds that they will be a drain on the host economy,[44] as are families with members with a disability. In a recent address to the Canadian Council for Refugees, Elinor Caplan, Minister of Citizenship and Immigration, made not a single reference to the special needs of refugee women, despite acknowledging the need to stress the protection of refugees when considering their ability to resettle in Canada.[45]

The formal equality of discourse tends to isolate racism from sexism and other forms of discrimination, with the result that the marginalization of women and girls is often unacknowledged. Racism experienced by many refugees in resettlement countries has multiple effects on women. Refugee men who are denied access to employment or decision making in the host country can attempt to retain their personal autonomy and power through controlling their wives and children, and the result is often an increase in domestic violence. Resettlement countries exhibit a strong preference for families with a male head, and do not often select single women with large families for resettlement, on the grounds that they will become an economic burden on the resettlement country. Resettlement services seldom acknowledge the experiences of refugee women and their need for services to be provided.[46]

Strategies for the World Conference against Racism

The Asia-Pacific Lobby Caucus is working to ensure that refugee women are invited to participate in the World Conference against Racism, and that they are provided with the opportunity to put forward their case. The Outcomes Document for the Durban meeting was first released in March 2001. It contains input from government reports, expert groups meetings, the five UN regions of the world, and meetings of the UN Human Rights Commission (UNHRC). The document is being continuously amended through a process referred to as "Square Brackets" and "Language" sessions. At each meeting of the UNHRC, representatives from member states discuss the document paragraph by paragraph and agree on language. If agreement cannot be reached on parts of the document, they are placed in "square brackets" until the following meeting. The task of the Durban conference is the resolution of the language still in square brackets.

The Tehran Declaration,[47] which was the Outcomes Document of the Asian Regional Conference, included language on refugees and racism, but nothing on refugee women. Some reference was made to the way in which racism is experienced differently by women in general, but no reference was made to the intersectionality of race, gender, and refugees. At the May 2001 meeting of the UNHRC[48] in preparation for the Durban meeting, progress was slow. While reference to refugees and asylum seekers

was included in lists of some vulnerable groups (within some adopted paragraphs), the lists themselves have not been accepted.[49]

The notion of lists of particular groups is the subject of ongoing debate within the UN system, evidenced recently at the special sitting of the General Assembly to review the Beijing Platform for Action of last year. Governments generally do not wish to commit in specific ways to actions for particular groups. The intersectionality of race and gender is a source of ongoing debate; see para 56, bis 2,[50] which deals with women's experience of sexual violence in armed conflict. Currently, three alternative versions have been submitted by governments, each clearly indicating strong resistance to the recognition that sexual violence during armed conflict is a serious violation of international humanitarian law. They include one version that suggests that "sexual violence in the context of armed conflict *can* be a violation of international humanitarian law." Based on the writers' experience of lobbying within the UN system, this is a familiar debate that has been active throughout a range of UN meetings that deal with women's human rights, including Beijing Plus Five and the International Criminal Court (ICC) process. Underpinning the objections of certain countries is a fear that if sexual violence is recognized as a public crime in situations of armed conflict, it will challenge their current situation, in which sexual violence is considered to fall within the domain of the family, of the private sphere, and is therefore neither a crime nor an area of state responsibility. The Vatican and certain fundamentalist Catholic and Islamic states have aligned at each of these meetings to protest the recognition of rape as a war crime and a crime against humanity and to protest against calls for ratification of the ICC. The Vatican contends that such recognition may lead to social acceptance of abortion.[51] It is the writers' view that these objections are motivated by a desire to prevent any state incursion into the "sacred" domain of the family and therefore into the ability of Church or religious law to control this so-called private space.

Recommendations to the WCAR

The Asia-Pacific Refugee Caucus is lobbying to have the following recommendations included in the Outcomes Document of the WCAR, Durban, September 2001:

- A "human rights" approach to the intersectionality of race and gender in refugee situations must be adopted by UN agencies and governments. This will involve the application of all human rights instruments to refugee women, regardless of their official status in a country of asylum.
- Refugee women must be involved in all aspects of conflict resolution and negotiated settlements for repatriation.
- Increased gender disaggregated data collection on the refugee experience, and documentation of human rights abuses of refugee women must be implemented by government and United Nations agencies.
- States should take seriously their humanitarian obligations, without discriminating between the different regions of the world, with regard to the principles of international co-operation, burden-sharing, and the resettlement of refugees in their countries, to ensure that state refugee policies fulfill the human rights principles inherent in the Refugee Convention and Protocol, and that resettlement is offered to all refugees, regardless of race, creed or gender and family composition.
- The World Conference calls on states to make international funding and other services, such as resettlement services, available to refugee populations in an equitable manner based on need, and unrelated to cultural and economic imperatives, with resettlement places offered to the most vulnerable, targeting women and their dependent children.
- The World Conference calls for an updated definition of refugees and a revision of individual status determination procedure to ensure that the claims of people who are evicted by ethnic violence and women at risk are recognized, particularly women subject to racially based gender violence, including rape, systematic rape, and sexual torture, and their dependent children.
- The World Conference urges states to recognize the different barriers that refugees and immigrants, in particular women and children, who comprise 80 per cent of the refugee population, face as they endeavour to participate in the economic, social, political, and cultural life of their new countries, and encourages states to develop strategies to facilitate the long-term integration of these persons into their new countries of residence and the full enjoyment by them of their human rights.
- Special attention should be given to the violations of the human rights of refugees in refugee camps and detention centres. In these places, women and girls who are bereft of effective protection often face

particular problems. Under these circumstances, they are often subjected to sexual or other assaults. It is essential that women are involved in refugee camp management, and policy making and management systems for relief and rehabilitation. The United Nations and States must ensure that women who are refugees and in other emergency humanitarian situations are protected from acts of violence including sexual violence, rape, and abuse, and ensure appropriate methods of recourse for victims, based on human rights principles, through the apprehension of the perpetrators of such acts of violence. The United Nations and governments should ensure that all health workers in refugee camps and emergency situations are given basic training in sexual violence, and sexual and reproductive heath care and information. In addition, the UNHCR should be supported to implement its guidelines on the protection of refugee women.

- The World Conference recommends that the ICERD[52] and CEDAW[53] committees work collaboratively in the context of the intersectionality of race and gender, to strengthen recommendations for legislation, policy, and programs that decisively address the multiple discrimination against women in racially, ethnically and economically marginalized communities.
- Governments should undertake all measures without delay for the elimination of all forms of racially motivated violence against women, including stringent measures in dealing with state and non-state perpetrators of violence, and providing access to remedies for women living in situations of armed conflict.
- Noting that impunity for the violation of human rights and international humanitarian law is a serious obstacle to political stability and sustainable development, the World Conference urges states to ratify the Rome Statute of the International Criminal Court.

If the Refugee Caucus is successful in having these recommendations included in the document, it will have created a series of "hooks" on which to hang future lobbying strategies. Inclusion will not ensure that governments implement the commitments made. It is up to the NGO community to ensure that these promises are kept. If the language is not accepted, there is still value in the fact that, for the first time, these issues have been explored at an international level and that public consciousness has been raised. This in itself is an important part of the long process of achieving positive change for refugee women. The intersectionality of race and gender in refugee situations and the multiple forms of discrimination that it generates have been named and discussed. The issue will not go away.

Notes

1. All Africa News Service, "Racism to Blame for Growing Number of Refugees, Says Top UN Refugee Official (2001) on-line: UNSW Library Expanded Academic ASAP Int'l Ed. <http://web2.infotrac.galegroup../purl=rc1_ecm_0_a71956217&dyn+9!ar_fmt?sw_aep=unsw.html> (date accessed: 6 June 2001).
2. UNHCR, "Refugees by Numbers" (2000) on-line: United Nations High Commissioner for Refugees <http://www.unhcr.org/> (date accessed: 11 June 2001).
3. "When Is a Refugee Not a Refugee?" *Economist (US),* 3 March 2001.
4. Ronald Kaye, "Defining the Agenda: British Refugee Policy and the Role of Parties," *Journal of Refugee Studies* 7, no. 2–3 (1994): 144–59; Guy S. Goodwin-Gill, "International Law and Human Rights: Trends Concerning International Migrants and Refugees," *International Migration Review* 23, no. 3 (1989): 526–46. Theodor van Boven, "United Nations Strategies to Combat Racism and Racial Discrimination: Past Experiences and Present Perspectives," UN Doc. E/CN.4/1999/WG.1BP.7, para 56 (1999). UNHCR, "Asian Preparatory Meeting for the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance 2001: Declaration and Plan of Action" (2001) on-line: WCAR Homepage <http://www.un.org/wcar/docs.htm> (date accessed: 6 June 2001).
5. Justice Marcus Einfeld, "Jesse Street Memorial Address" (20 April 2001) on-line: ABC Radio <http://www.abc.net.au/rn/tals/bbing/docs/20010603/-einfeld.rtf> (date accessed: 6 June 2001), and Refugee Council of Australia, "Refugees and Unemployment" briefing paper (Sydney: RCOA, 1993). This paper prepared by the Refugee Council of Australia refugees suggests that the worst-case scenario is that refugees have a neutral impact on the economy of the host country, but, more likely, they have some positive economic effect.
6. UNHCR, "Guidelines on Preventing and Responding to Sexual Violence against Refugee Women" (Geneva: UNHCR, 1995).
7. Hilary Charlesworth and Christine Chinkin, *The Boundaries of International Law: A Feminist Analysis* (Manchester: Juris Publishing, Manchester University Press, 2000).
8. Ibid., 17.
9. Pirkko Kourula, *Broadening the Edges: Refugee Definition and International Protection Revisited* (The Hague: Martinus Nijhoff Publishers, 1997).
10. Ibid., 132.
11. Cases include the Australian Refugee Review Tribunal decisions on February 5, 1999, and July 30, 1999, in which "young women in Somalia" were considered as members of a particular social group, and rape was deemed to be persecution. The case of Fauziya Kassinga, an asylum-seeker from Togo

fleeing female genital mutilation, documented in Fauziya Kassinga and Layli Miller Bashir, *Do They Hear You When You Cry?* (Bantam Doubleday, Dell Publishing Group, 1998).

12. ICERD, "Gender Related Dimensions of Racial Discrimination" (2000) General Recommendation 25, International Committee on the Elimination of Racial Discrimination, UN Doc. ICERD/C/56/Misc.21/Rev.3.
13. UN, "Gender and Racial Discrimination," (2000) Report of the Expert Group Meeting 2000, on-line: United Nations <http://www.un.org/womenwatch/saw/csw/genrac/report.htm> (date accessed: 6 June 2001).
14. Ibid.
15. Ibid.
16. Ibid.
17. "Othering" can simultaneously be traced to the Western philosophical tradition of dichotomous thought. Such thought had its origins in Descartes' mind/body dualism, and continues to provide the metaphysical foundations of liberal discourse and theory today. Dichotomous thought is characterized by the representation of ideas as a pair of mutually exclusive and exhaustive opposites. In Western thought, dichotomies traditionally privilege one pole, defining it in absolute terms and the other merely relative to it, as in A and not-A. Descartes' substance dualism established a system of thought that gave privilege to mind, reason,†and culture over body, passion, and nature. Feminists took up the critique and asserted that this philosophical tradition also created the dichotomy between man and woman, and this has more recently been extended to explain the Western relationship to other cultures, races, and species. See Marianne H. Marchand and Jane L Parpart, eds., *Feminism/Postmodernism/Development* (London and New York: Routledge, 1995).
18. van Boven, paragraph 5 (b).
19. R. Coomaraswamy and R. Seifert in Charlesworth and Chinkin, *Boundaries of International Law,*13, 254.
20. International Helsinki Federation for Human Rights, "Women's Rights Must Be Addressed in South-East Europe," on-line: International Helsinki Federation for Human Rights <http://www.ihf-hr.org/appeals/000416.htm> (date accessed: 15 May 2000).
21. Uli Linke, "Gendered Difference, Violent Imagination, Blood Race, Nation," *American Anthropologist* 99, no. 3 (1997): 559–73.
22. UN, EXCOM Conclusions: No. 39 (XXXVI) 1985, No. 54 (XXXIX) 1988, No. 64 (XLI) 1990, No. 73 (XLIV) 1993, and Information Note on UNHCR's Guidelines on the Protection of Refugee Women (UN Doc. EC/SCP/67).
23. L. Pope, "Refugee Protection and Determination: Women Claimants" (summary of comments made at the CRDD Working Group on Women Refugee Claimants: Training Workshop for Members, Toronto, Canada, 1990).
24. This case study was undertaken by Eileen Pittaway 1991–8 and builds on her previous published work, *Women Still at Risk in Australia* (Canberra: Bureau of Immigration Research, 1991).
25. Nicole Hercus, Nandini Ray, and Eileen Pittaway, "The Women at Risk Program: An Evaluation Proposal" (Sydney: Centre for Refugee Research, UNSW, 2000).
26. Research data, WaR Project ANCCORW, interviews conducted by Pittaway in Hong Kong refugee camps in March 1991 and in Thai refugee camps in September 1991. Interviews in Australia were conducted by Pittaway and Sylvia Winton in September 1991.
27. Research data, WaR Research Project 1991 (ANCCORW Archives, Sydney, Australia).
28. Research data, WaR Research Project 1991, interviews by Pittaway with refugee women in Whitehead Refugee Camp, March 1991, and with ISS Director, Hong Kong, March 1991 (ANCCORW Archives, Sydney, Australia).
29. At the time this research was conducted, apart from a few Amnesty International reports, very little written material was available on the sexual torture of women. The researcher had to wait until much later, following the Beijing Conference and the Rwanda War Crimes Tribunal, before significant research and literature became available to support the evidence that she had collected. In fact, the researcher was told several times that she was "overreacting."
30. Diane Hayes and Sylvia Winton, "An Evaluation of the Women at Risk Scheme" (Sydney: ANCCORW, 1991); Jacqueline R. Castel, "Rape, Sexual Assault, and the Meaning of Persecution," *International Journal of Refugee Law* 4, no. 1 (1992): 39–56; Jacqueline Bhabha, "Legal Problems of Women Refugees," *Women: A Cultural Review* 4, no. 3 (1993): 240–9; Nasreen Mahmud, "Crimes against Honour: Women in International Refugee Law," *Journal of Refugee Studies* 9, no. 4 (1996): 367–82.
31. Reference available but not included, in order to protect the privacy of those involved.
32. Research data, WaR Research Project 1991. Interviews by Pittaway with determining officers (ANCCORW Archives, Sydney, Australia).
33. Castel, "Rape, Sexual Assault, and the Meaning of Persecution," 39.
34. Human Rights Watch, *The Human Rights Watch Global Report on Women's Human Rights* (New York: Human Rights Watch, 1995).
35. From a presentation given by Donna Sullivan, International Human Rights Watch, AWHRC HR Training Course, Jakarta, 1994.
36. Research Data, WaR Research Project 1991, ANCCORW. Recorded conversation between Pittaway and Juliana Nkrumah, 1993 (ANCCORW Archives, Sydney, Australia).
37. Lepa Mladjenovic, *Rape in War: The History of the Universal Soldier* (London: Third World Network Features, 1993).
38. "Refugees, Migration and Trafficking," Caucus documentation from the NGO preparatory meetings for the World Conference against Racism, held in Chiang Mai, Thailand, 24–6 January 2001, and Kathmandu, Nepal, 27–9 April 2001, and the APWLD Lobby Document, *Women's Human Rights: Engendering the Agenda of WCAR* (Thailand: APWLD, April 2001).
39. UNHCR (2000) "Migration and Trafficking," on-line: <http://www.unhchr.ch/html/racism/00-migra.html> (date accessed: 6 June 2001), and the APWLD Lobby document, 53–4.
40. COMTEX (2000) "US under Fire over 'Racism' against African

Refugees," *East African,* 6 January 2000, on-line: All Africa Global News Service <http://allafrica.com/stories/200001050003.html.> (date accessed: 6 June 2001).

41. Guy S. Goodwin-Gill, "International Law and Human Rights: Trends Concerning International Migrants and Refugees," *International Migration Review* 23, no. 3 (1989): 526–46.
42. Ibid., 545.
43. Cynthia Enloe, *The Morning After: Sexual Politics at the End of the Cold War* (Berkeley: University of California Press, 1993), and UN (2000) "Gender and Racial Discrimination," Report of the Expert Group Meeting 2000, on-line: United Nations <http://www.un.org/womenwatch/saw/csw/genrac/report.htm> (date accessed: 6 June 2001).
44. UNHCR (1998), "Meeting New Challenges: Evolving Approaches to the Protection of Women-at-Risk" (Resettlement Section , draft in progress, April 1998).
45. Elinor Caplan, "Canada's Refugee Policies," *Migration World Magazine* 28, no. 1 (2000): 19–24.
46. Eileen Pittaway, *Women Still at Risk in Australia* (Canberra: Bureau of Immigration Research, 1991); Eileen Pittaway, "Protection: The Solution or Part of the Problem?" (paper presented at Gender Issues and Refugees: Developmental Implications, York University, Toronto, Canada, 1993); Robyn Iredale, Colleen Mitchell, Rogelia Pe-Pua, et al., *Ambivalent Welcome: The Settlement Experiences of Humanitarian Entrant Families in Australia* (Canberra: Department of Immigration and Multicultural Affairs, AGPS, 1996).
47. "Asian Preparatory Meeting for the World Conference against Racism, Racial Discrimination, Xenophobia, and Related Intolerance 2001: Declaration and Plan of Action," on-line: WCAR Homepage <http://www.un.org/WCAR/docs.htm> (date accessed: 6 June 2001).
48. UNHRC, World Conference against Racism, Preparatory Committee, Second Session, Geneva, May 21 to June 1, 2001.
49. "World Conference against Racism, Racial Discrimination, Xenophobia, and Related Intolerance (Preparatory Committee)" (UN Doc. A/CONF.189/PC.2/L.1/Add), paras. 31, 32, 36, 37, and 38.
50. Ibid., para. 56, bis 2.
51. Charlesworth and Chinkin, *Boundaries of International Law,* 333; and Geoffrey Robertson, *Crimes against Humanity: The Struggle for Global Justice* (London: Penguin Books, 2000).
52. International Convention on the Elimination of All Forms of Racial Discrimination (ICERD).
53. Convention on the Elimination of All Forms of Discrimination against Women (CEDAW).

Eileen Pittaway is the director of the Centre for Refugee Research and a lecturer in the School of Social Work, University of New South Wales. She is a board member of the Australian National Committee on Refugee Women, and will be attending the conference to work with the Asia-Pacific Refugee Caucus.

Linda Bartolomei is a senior research associate in the Centre for Refugee Research, University of New South Wales. She is a board member of the Australian National Committee on Refugee Women, and is active in advocacy and lobbying with refugee women.