SPECIAL ISSUE ON WOMEN REFUGEES — PART 1: ISSUES

Voice and Empowerment:
The Gender Relations of Forced Migration

Over the past few years the literature on refugees has begun to address how different the experiences of refugee women are from those of their male counterparts. The unequal treatment women confront in flight, exile, resettlement, and repatriation has become an important, though still understudied focus of refugee research. In a two-part issue of *Refuge*, we address resistance and social change among refugee women internationally.
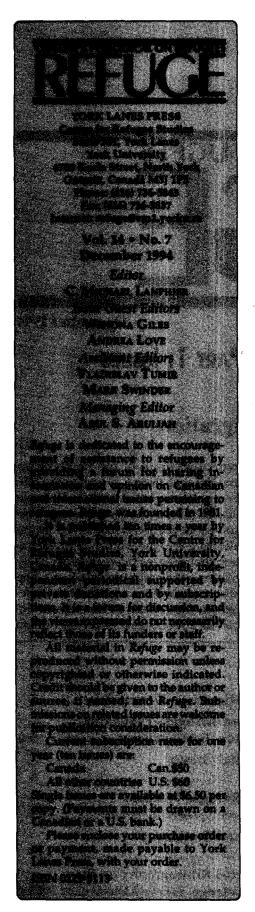
The events described in the following articles occur in diverse cultural contexts and are addressed from sociological, policy, and grassroots perspectives. The most important theme addressed is that of women voicing their need to have control over their lives—to be regarded as having rights. Women are also described as using these rights to improve their situations and those of their families and communities. The literature on refugee women is beginning to "humanize" women—to describe them as not always empowered and powerful, nor always vulnerable and "victimized." The papers in this issue (Part

One) take this approach and address some policy and theoretical issues. Part Two (in the next issue) focuses on specific case studies concerning women refugees.

We open Part One with several papers that provide a Canadian perspective on refugee issues. The first paper by Judith Ramirez discusses the Canadian Gender Persecution *Guidelines* that are the product of the Gender

Working Group of the Immigration and Refugee Board, as well as the lobbying efforts of many NGOs. Ramirez discusses how the *Guidelines* are a response to the privatization of issues affecting refugee women, a privatization that silences them and effectively removes their right to speak out. She also refers to the position of the *Guidelines* in the context of the current debate around issues of universal human

rights versus more cultural relativist perspectives. Victoria Foote pursues research on the *Guidelines* to analyze how the classification of women as a "particular social group" arises out of what she refers to as a "masculinist framework." Her article brings feminist theory concerning issues of identity and difference to bear on the refugee literature and its construction of women as a "social group."

In the paper on Canada's response to the Women at Risk Program, the complicated process involving international and national women's networks, NGOs, and government, that resulted in Canada's formal participation in the Women at Risk. Program, is described and critiqued by Noreen Spencer-Nimmons. While Spencer-Nimmons lauds Canada's involvement, she also challenges the government to recognize that refugee women do not solely draw on Canadian resources, but bring their own to resettlement.

Inger Agger's paper raises the issue of women's rights as human rights in a unique way. She describes how, as a therapist working with victims of torture, framing the experience of torture in the context of human rights has been and can be a consciousness-raising experience for both the women she has worked with and herself. She refers to the "ritual" space (both physical and metaphoric) where both the personal and the political are shared between the women and the researcher/therapist. She challenges the artificially created boundaries between the two roles/functions of the counsellor and the counselled by showing how they overlap and in fact intersect.

The final paper in this issue is Helene Moussa's bibliography. It provides an overview of research that she carried out on the gender relations of "citizenship," particularly as it pertains to Muslim women.

In Part Two (Vol. 14, No. 8), we focus on several regional case studies beginning with Kate Halvorsen's perspectives on Southeast Asia, where she questions the inequalities that are embedded in the refugee assistance

available to repatriating and repatriated women. Comparing the cases of Laos, Cambodia, and Vietnam, she argues that poorly informed and resourced women cannot be productively engaged in their own resettlement. Women need to be integrally involved in plans that determine their future. The theme of giving voice and control to women is echoed in the paper by Dodo Thandiwe Motsisi on elderly Mozambican women in a refugee camp in Zimbabwe. Her focus on elderly women is an understudied area in refugee research and is welcomed. She stresses the necessity of listening to elderly women in order to understand their needs and their skills. As well, she advocates giving women control over resources that can enable them to be more independent and productive.

Through an analysis of activist women's groups in the former Yugoslavia, Maja Korac's paper also addresses the importance of refugee women (re)establishing control over their lives. The "inclusive" politics of the women's groups that work "with" women rather than "for" them, challenges the paternalism of traditional approaches to refugee assistance. Her paper speaks to the efforts of women's groups to look beyond ethnic differences and see themselves as "sharing the identity of 'woman,'" as well as an opposition to the war.

Continuing a focus on the former Yugoslavia, Cacic-Kumpes considers the effect that war-rapes will have in the refugee and post-refugee period in that region. The violence perpetrated against women (including fear of rape) is one of the many layers of a strategy of genocide with which women constantly struggle. Surviving rape leaves women to confront feelings of degradation and trauma, as well as shame related to prejudices derived from their religious/patriarchal socialization. Cacic-Kumpes also raises a rhetorical question: will the surviving men, who have themselves been humiliated by torture and sexual abuse, spend their lives in revengeful activity?

In the final paper, Marlinda Freire argues that the Latin American refugee

women she has interviewed in Toronto are generally better able and equipped to restructure (re-invent themselves as bicultural-bilingual) new selves as compared to Latin American men. While women are able to establish a continuity of tasks related to their past lives in Latin America, as well as to secure new and meaningful tasks in the Canadian context, men's core identity/masculinity is challenged by the refugee ordeal. Men experience severe losses due to changes in their work status, and in effective parental and financial-provider roles. In effect, Freire's research demonstrates that traditional Latin American gender relations can contribute to women's empowerment and men's disempowerment in the new country of resettlement.

All of these papers challenge the traditional view of refugee women as solely and always passive "victims," and demonstrate the need to give "voice" to women as well as the ways in which women have proactively taken "voice." They describe a feminist approach to refugee issues that is based on a more interactive relationship between refugee women and "others" than traditional, paternalistic approaches.

The preparation of this issue was carried out with Andrea Love, whose insight and skills were an invaluable part of the entire process of selection and editing. Finally, while a special issue on the gender relations of refugee migration is important, so is the mainstreaming of research on gender. Since gender relations involve both men and women, we hope to see more papers that address gender relations in every issue of this journal and encourage your submissions.

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The Canadian Guidelines On Women Refugee Claimants Fearing Gender-Related Persecution[1]

Judith Ramirez

Introduction

The vast majority of refugee claimants who reach the borders of industrialized countries are men, even though 80 percent of refugees worldwide are women.[2] This fact alone would indicate the need to ensure that our determination systems are equipped to recognize forms of persecution suffered primarily, if not exclusively, by women. Otherwise, we perpetuate a system which doubly disadvantages women refugees. First, their lesser mobility and fewer resources limit their access to countries like the United States and Canada. And second, once they arrive (in disproportionately low numbers), their experiences of persecution and lack of state protection are less readily recognized.

There is a growing awareness that women often fear persecution for different reasons than men. Even when their fear has the same basis as men's—race, religion, nationality, political opinion, and membership in a particular social group—women often experience persecution differently. This has led the international community to begin to re-interpret the meaning of persecution, a concept which developed primarily in response to the experience of male refugees.[3]

In 1985, the Executive Committee of the United Nations High Commissioner for Refugees (UNHCR) recognized that women who face harsh or inhumane treatment for transgressing the social mores of their societies may be considered a "particular social group" within the UN definition of a Convention Refugee (UNHCR 1985). The UNHCR has also issued "Guide-

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lines on the Protection of Refugee Women" (UNHCR 1991), and in 1993 the UN Commission on Human Rights adopted a resolution acknowledging that women are susceptible to particular sorts of human rights abuses.

Development of the Gender Guidelines

The Immigration and Refugee Board (IRB)[4] Chairperson, Nurjehan Mawani, issued *Guidelines on Women Refugee Claimants Fearing Gender-Related Persecution* on March 9, 1993. The purpose of the *Guidelines* is to provide substantive legal and procedural guidance in analysing gender-related issues in refugee claims submitted by women. The legislative authority to issue the guidelines was given to the IRB Chairperson when amendments to the *Immigration Act* were enacted in February 1993. Canada is the first refugee-receiving country to establish formal guidelines for the adjudication of refugee claims made by women.[5] The *Guidelines* now serve as the model for countries considering similar initiatives, including the United States and Australia.

The *Guidelines* are the culmination of a long process of vigorous discussion within the IRB. In 1990, the first Working Group on Women Refugee Claimants was established in Toronto. Co-chaired by Flora Liebich and myself, and the Group's principal objective was to train all the key participants in the determination process to deal with gender-based refugee claims. To that end, we organized a number of professional development workshops featuring a wide range of speakers, including UNHCR specialized staff, legal and human rights experts, medical practitioners assisting torture victims, and refugee women themselves.

The workshops addressed issues such as gender-based patterns of per-

secution experienced by women; the socialization process involving women from refugee-producing regions of the world; the impact of cross-cultural misunderstanding on the assessment of a claimant's credibility; the use of the Convention ground of membership in a particular social group in gender-specific refugee claims; and the impact of international human rights instruments on gender-based claims.

In 1991, the Working Group held discussions with researchers in the IRB Hearings Branch about the need for a "preferred position paper" on gender

part of public discourse. Our leading newspapers have reporters who specialize in the field, and it is not uncommon to see front-page articles and editorials on the subject. The voice of nongovernmental organizations is routinely reported and it is the commitment of these organizations to key issues that often serves as the engine for public debate. Chairperson Mawani later constituted a permanent consultative committee of IRB stakeholders and it met for the first time in February 1994. In addition, she has appointed a special advisor who is also the National Co-ordinator on Gender

secution is primarily based on the experience of men. Aside from some cases of rape, the Convention definition has not been widely applied to such women's experiences as female infanticide, genital mutilation, bride-burning, forced marriage, forced abortion, compulsory sterilization, or domestic violence.

The fact that certain forms of harm experienced by women, such as sexual and domestic violence, are universal, is irrelevant when determining whether these gender-specific crimes constitute forms of persecution. Just like religion, race, nationality, and political opinion, a gender-based "particular social group" may encompass large numbers of similarly-situated persons.

Similarly, a woman who chooses not to follow the precepts of a state religion or who does not fulfil the specific role assigned to women by religious doctrine, and is punished by the state as a result, may have a well-founded fear of persecution for reasons of religion.

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issues, a precursor to the *Guidelines*. In the following months, we responded to several early drafts. This was followed by a process of internal consultation across the country that was set in motion in March, 1992 at a Toronto workshop sponsored by the Working Group and the UNHCR. The IRB Legal Services became actively involved in canvassing relevant case law and scholarly commentary, and in drafting successive versions of the paper. The final phase consisted of external consultation with a wide range of organizations, including the Canadian Council for Refugees, UNHCR, Canadian Advisory Council on the Status of Women, Status of Women Canada, and the Canadian Council of Churches. From the numerous responses received by the Board, it was evident that our stakeholders viewed the *Guidelines* as an important initiative.

The public debate on a number of IRB decisions relating to women (Dench 1994) gave added impetus both to our internal deliberations on gender issues and to the sustained process of external consultations. In Canada, government policy on immigration and refugee matters is an entrenched

Issues and, Working Groups on Women Refugee Claimants have been set up at IRB centres across Canada.

Further administrative changes have been introduced that facilitate the tracking of gender-based claims before a hearing is scheduled. Working Group members are routinely assigned to hear gender-based claims. Refugee Hearings Officers (who act as counsel to the Board) liaise with claimants and their counsel to determine if there are issues of a particularly sensitive nature, such as sexual assault. If requested, every effort is made to provide a female panel as well as a female interpreter and Refugee Hearing Officer.

The use of expert witnesses is encouraged by the Board and, where circumstances warrant it, a claimant may give evidence through a statutory declaration or on video rather than through *viva voce* testimony.

Overview of the *Guidelines*

The *Guidelines* make several important points that reflect key issues in any gender-based analysis (Liebich and Ramirez 1993). The existing body of jurisprudence on the meaning of per-

The *Guidelines* outline common forms of persecution directed primarily against women:

- persecution on the basis of kinship, where a political opinion is imputed to them due to the political views or activities of family members;
- severe discrimination based on the fact that they are women;
- persecution for transgressing against religious precepts, social mores, and legal or cultural norms; and
- exposure to violence by the authorities or private actors, including domestic violence, from which the state is unable or unwilling to protect them.

The "Framework of Analysis," which accompanies the *Guidelines*, is an important tool in analysing the link between gender, the feared persecution, and one or more of the grounds in the definition of a Convention refugee. The "Framework" includes an assessment of the following factors:

- the particular circumstances that give rise to the claimant's fear of persecution;
- the general conditions in the claimant's country of origin, including the nature of oppressive laws imposed upon women;
- the seriousness of the treatment feared by the claimant;

- whether or not the claimant's fear of persecution is based on one or more of the grounds in the Convention Refugee definition;
- whether there is adequate state protection available to the claimant; and
- whether the claimant's fear of persecution is well-founded under all of these circumstances.

The *Guidelines* also point out that claims made by women which fall under the enumerated grounds of race, religion, nationality, or political opinion, may also require a gender-based analysis. For example, a woman who opposes institutionalized discrimination of women, or expresses views of independence from the male social/cultural dominance in her society, may be found to fear persecution for reasons of imputed political opinion (i.e. she is perceived by the established political/social structure as expressing politically antagonistic views) (IRB 1993, 4).

Similarly, a woman who chooses not to follow the precepts of a state religion or who does not fulfil the specific role assigned to women by religious doctrine, and is punished by the state as a result, may have a well-founded fear of persecution for reasons of religion. In the context of the Convention Refugee definition, the notion of religion should allow the freedom to hold or not to hold certain beliefs and the right to practice or not to practice the religion of one's choice (Ibid.).

It is important to note that, according to the *Guidelines*, a woman's refugee claim cannot be based solely on the fact that she objects to a national policy or law to which she is subject. She would need to establish that:
a) the policy or law is inherently persecutory; or
b) the policy or law is used as a means of persecution for one of the enumerated reasons; or
c) the policy or law, although having legitimate goals, is administered through persecutory means; or
d) the penalty for noncompliance with the policy or law is disproportionately severe (Ibid. 8).

The Public/Private Dichotomy

The *Guidelines* explicitly address the public/private distinction that has historically rendered women's experience invisible and prevented the recognition of women's societal rights as human rights, deserving of national and international protection. Canadian refugee jurisprudence has long recognized that violations of fundamental rights by non-state actors can form a basis for a refugee claim.[6] The *Guidelines* apply this idea to severe discrimination on grounds of gender or acts of gendered violence, "either by public authorities or at the hands of private citizens from whose actions the state is unwilling or unable to adequately protect the concerned persons."[7] Thus, domestic and sexual violence (actual or threatened) by private citizens (i.e., husbands or boyfriends not susceptible to state control) can found a refugee claim. The critical issue is the availability of state protection. The *Guidelines* state:

> Decision-makers should consider evidence indicating a failure of state protection in that governing institutions and/or their agents in the claimant's country of origin may have condoned the instances of sexual violence if they had been aware of them or did nothing to prevent them (IRB 1993, 8).

Since the advent of the *Canadian Charter of Rights and Freedoms*, jurisprudence on women's rights has challenged the public/private dichotomy in cases involving domestic and sexual violence by a male spouse. In *R. v. Lavallee*,[8] the Supreme Court of Canada took issue with the prevailing societal pattern of accepting domestic violence. The view that the home is a private sphere within which the husband has unfettered control over his wife was directly challenged. Madam Justice Wilson said for the Court that "no man has a right to abuse any woman under any circumstances." According to leading feminist lawyer Mary Eberts, "[t]his is a real breakthrough, not only putting women at the centre of judicial analysis of cases

involving women, but also in expressing severe social opprobrium of what had long been tolerated" (Eberts 1993, 8).

Similarly, in *McGraw v. The Queen*,[9] the Supreme Court addressed the question of whether the threat of rape could be seen as a threat of grievous bodily harm. In his reasons, Mr. Justice Cory concluded that, "for women, rape under any circumstances must constitute a profound interference with their physical integrity."[10] He referred to unwanted sexual intercourse as "the ultimate violation of personal privacy," citing with approval the literature on the "rape trauma syndrome."[11]

Cultural Relativism

A critical issue in the international discourse on women's human rights is the universality of human rights versus "cultural relativism." In issuing the *Guidelines*, IRB Chairperson Mawani noted that, for Canada, "[t]his is not a matter of imposing western standards on other countries. It is a matter of respecting internationally accepted human rights standards" (IRB 1993). The 1948 Universal Declaration of Human Rights (UDHR) defines the basic principle of international human rights as "the inherent dignity and the equal and inalienable rights of all members of the human family [as] the foundation of freedom, justice and peace in the world."

According to Ed Broadbent, President of the International Centre for Human Rights and Democratic Development, based in Montreal, "the universality of human rights derives from the notion that all human beings are fundamentally equal in principle, and that neither culture, nor gender, nor race can detract from the entitlement of all people to the rights needed to uphold that dignity" (Broadbent 1994, 2). Mr. Broadbent states that "today universality is evolving, becoming more inclusive of historically marginalized populations. The principles of universal human rights are finally being applied to the protection—at least in theory—of the rights of women" (*ibid.* at 3).

The Final Declaration, issued by the World Conference on Human Rights in Vienna in June 1994, mandated governments not only to protect but also to promote universal human rights:

All human rights are universal, indivisible, interdependent and inter-related. The international community must treat human rights globally in a fair and equal manner, on the same footing, and with the same emphasis. While the significance of national and regional particularities and various historical, cultural and religious backgrounds must be kept in mind, it is the duty of states, regardless of their political, economic and cultural systems to promote and protect all human rights and fundamental freedoms (Broadbent 1994, 5).

The Organization of African Unity's *Convention Governing the Specific Aspects of Refugee Problems in Africa* of September 10, 1969, regards the granting of asylum to refugees as a peaceful and humanitarian act that shall not be regarded as an unfriendly act by any member state. As well, the United Nations *Convention on Territorial Asylum* signed in Caracas on March 28, 1954, affirms that every state has the right to admit into its territory any person it wishes without giving rise to a complaint by any other member state. These measurers recognize that the role of the recipient countries is an essentially passive one—they admit those who arrive at their borders asking for protection under international human rights provisions.

Consistent with this approach, the *Guidelines* point to the use of international human rights instruments in adjudicating gender-based refugee claims:

The social, cultural, traditional and religious norms and the laws affecting women in the claimant's country of origin ought to be assessed by reference to human rights instruments which provide a framework of international standards for recognizing the protection needs of women. What constitutes permissible conduct by a state towards women may be determined, therefore, by reference to international instruments such as:

Universal Declaration of Human Rights; International Covenant on Civil and Political Rights; International Covenant on Economic, Social and Cultural Rights; Convention on the Elimination of All Forms of Discrimination Against Women; Convention on the Political Rights of Women; Convention on the Nationality of Married Women (IRB 1993, 7).

It is interesting to note that when the *Guidelines* were first issued, one of the criticisms levelled at the IRB was that inordinately large numbers of women would arrive on Canada's doorstep claiming refugee status. In fact, there has been little change in the number of claims made by women since the *Guidelines* were introduced. As mentioned earlier, although the overwhelming majority of the world's refugees are women, women lack the resources and mobility to travel to countries like Canada.

Post-*Guidelines* Jurisprudence

In the sixteen months since the *Guidelines* were issued, the IRB has been monitoring their implementation in the hearing room. A number of decisions illustrate the effect of the *Guidelines* on refugee claims made by women.[12]

Since the *Guidelines* were issued, the Supreme Court of Canada has handed down its landmark decision in *Canada (Attorney General) v. Ward*,[13] which, along with other recent decisions of the Federal Court of Canada, elaborates on the interpretation of "membership in a particular social group." The *Ward* case outlines three categories that would constitute a "particular social group," one of which defines the group by "an innate or unchangeable characteristic." This category "would embrace individuals fearing persecution on such bases as gender, linguistic background, and sexual orientation."

Significantly, the *Ward* case also recognizes that "underlying the Convention is the international community's commitment to the assurance of basic human rights without discrimination."

As well, the Federal Court of Canada (Trial Division) has recently handed down its first decision which refers directly to the *Guidelines*. In the *Mohamed* decision of February 14, 1994, the Court ruled that if gender-related persecution is dealt with implicitly in the reasons, "this is not sufficient to discharge the obligation of the Board to provide clear reasons on all material issues raised by an applicant in support of a refugee claim." Madam Justice McGillis added, "I am satisfied that the Board failed to deliver reasons in the case at bar which squarely addressed the issue of gender-related persecution and *therefore committed an error of law*." The case was referred back to the IRB for a redetermination before a different panel.

Conclusion

The *Guidelines* are currently being updated to reflect recent developments in the jurisprudence on gender-related persecution. The decisions of the IRB reviewing courts as well as the IRB's own case-law will inform the revision process. The IRB is confident that the steps Canada has taken to assess gender-related claims equitably can be successfully applied to determination systems in other countries. The same principles which underlie Canada's *Guidelines* are evident in the draft *Guidelines for Women Asylum Seekers*, presented by the Women Refugees Project at Harvard University to the Immigration and Naturalization Service in the United States.

In a recent address to the Carnegie Endowment for International Peace in Washington, D.C., Mawani said:

While I am gratified by our accomplishments for women refugee claimants, I am aware that there is still much to be done; I continue to be aware that respect for and an understanding of these rights need to be translated into the fair and sensitive treatment of the individual woman refugee claimant. This is the challenge for all of us as we continue in the quest of guaranteeing meaningful gender inclusiveness for refugee women throughout the world (Mawani 1994). ∎

Notes

1. This is a revised version of a paper presented at the XIIIth World Congress of Sociology, "Development, Democracy and Women's Rights" session, in Bielefeld, Germany on July 23, 1994.

2. While the number of refugee claims in industrial countries has risen from 100,000 in 1983 to 800,000 in 1992, this represents only 4 percent of the worldwide refugee population. The brunt of refugee protection is not borne by the industrialized countries, but by the developing regions of the world.

3. No definition of persecution is provided in the 1951 *Convention*, or in the *Immigration Act*. In Canada, the IRB is bound by the relevant jurisprudence of higher courts. It is also guided by the UNHCR *Handbook on Procedures and Criteria for Determining Refugee Status* and the international human rights instruments.

4. IRB is the largest administrative tribunal in Canada, and its Convention Refugee Determination Division (CRDD) has more than 200 independent decision makers, or Members, throughout the country. Roughly 42 percent of IRB members are women, and a wide range of racial and ethnocultural backgrounds are represented. Refugee claims are usually heard in the presence of two IRB Members at an in-camera hearing. In most cases, when one member decides in favour of the claim, the claimant is granted refugee status.

5. Up to 30,000 decisions on refugee claimants are made each year, of which 30 percent involve women. The acceptance rate for women claimants has consistently been somewhat higher than the overall average. In 1992, the acceptance rate for women stood at 64 percent as compared to 60 percent overall. In 1993, the overall acceptance rate was 55 percent, while the rate for women claimants remained marginally higher.

6. *Rajudeen v. M.E.I.* (1984), 55 N.R. 129 (F.C.A.). This case involved a Tamil whom the Sri Lankan police failed to protect from Sinhalese thugs.

7. *Ibid.*

8. [1990] 1 S.C.R. 852. In this case, a battered wife was acquitted of murdering her common-law husband on the grounds that she had a reasonable apprehension of bodily harm and was entitled to defend herself.

9. [1991] 3 S.C.R. 72.

10. *Ibid.* at 83–85.

11. For information on the symptoms associated with the "rape trauma syndrome," see discussion on "Post-Traumatic Stress Disorder" in the Diagnostic and Statistical Manual of Mental Disorders (Third Edition—Revised), American Psychiatric Association, Washington D.C., 1987.

12. • In Toronto, a battered wife from Ecuador was found to be a Convention Refugee two days after the *Guidelines* were released. Her counsel presented evidence that, in Ecuador, "violence is prohibited by law but is common in practice." In its analysis, the panel found that the unwillingness of the state to protect "Ecuadorian women subject to wife abuse may amount to persecution depending on the gravity of such abuse." (CRDD U92-08714 4/6/93)

• A Vancouver panel found that two Mayan sisters from Guatemala were refugees. The teenage girls were threatened with rape by soldiers because their father was involved with the guerrilla movement. As young women, they were particularly vulnerable in their society and they were not protected by the state authorities. (CRDD U92-00883/00884 23/3/93)

• A battered wife from Jamaica was found not to be a refugee on the grounds that adequate protection from state authorities was available to her. Her testimony established that the police had responded repeatedly to her complaints and were prepared to charge her husband with assault. The police charged him on several occasions when other victims pressed charges. However, the claimant was unwilling to press charges. (CRDD T93-03535 30/7/83)

• A battered wife from Bulgaria was found to be a refugee when a Toronto panel concluded that state authorities had failed to protect her because her husband was employed by the security services. She complained to the police on several occasions and was told that no action would be taken against her husband because he had not violated public order. (CRDD T92-09592 14/9/93)

• In December 1993, a panel considered the case of a young Pakistani woman who was active in the student wing of the Pakistan People's Party. She had been physically and sexually assaulted by a man she recognized as belonging to a rival student political group. As a result of the attack, she became pregnant. Fearing that her father might have her killed to protect the family honour, she fled to Canada where she gave birth to her child. The panel decided the claimant had a well-founded fear of persecution because of her membership in the particular social group of raped, single females with a child born out of wedlock. The panel looked at the evidence showing that the penal laws in Pakistan weigh more heavily on women than on men. For a woman to prove sexual assault, she must obtain the confession of the perpetrator of the assault or the testimony of four adult male Muslim witnesses of the act. If a woman fails to prove the sexual assault, or does not file charges but becomes pregnant she is charged with adultery. The panel found that the claimant would face prejudicial treatment before the law, potential physical harm, and possible death if she were returned to Pakistan. (CRDD U93-06372 10/12/93)

• A woman who fled Lebanon with her young son to avoid losing custody of him under Sharia law was recently admitted as a refugee. The panel examined the circumstances and concluded that her fundamental rights to equal treatment before the law would be violated because of her gender. Neither her rights as a parent nor the child's best interests would be considered in the custody proceedings under Sharia law. (CRDD T93-05935-36 31/12/93)

• In July 1994, a Toronto panel found a ten-year-old girl from Somalia to be a refugee on the grounds that she faces female genital mutilation—a violation of her fundamental right to personal security—if she returns to Somalia where this traditional practice is widespread. (CRDD T93-12198 14/7/94)

13. [1993] 2 S.C.R. 689.

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Refugee Women as a Particular Social Group: A Reconsideration

Victoria Foote

Introduction

The majority of the world's 23 million refugees (Darton 1994, A1) are women and their dependants. Most refugee claimants in Canada, however, are men. Of the 30,000 refugee claimants who arrived in Canada in 1993, less than one-third were female (see Ramirez in this issue). There are several reasons for this discrepancy. Men, unencumbered by the care of children and the elderly, are more mobile than women. They often have greater financial resources at their disposal and are less vulnerable travelling alone than are women. In addition, it is often more culturally acceptable for men to travel on their own. Finally, it is more difficult for women to meet the legal criteria for obtaining refugee status than it is for men.

The 1951 United Nations Convention Relating to the Status of Refugees defines a refugee in Article 1(A)(2) as a person who, owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership in a particular social group, or political opinion is outside the country of his [her] nationality and is unable or, owing to such fear, unwilling to avail himself [herself] of the protection of that country.

The gender-neutral language of the Convention definition is deceptive. Hidden in the neutrality is an understanding of persecution, and the grounds upon which it is legally based, that has been formulated by a distinctly male perception of what constitutes a legitimate fear of persecution. Because gender is absent as an enumerated basis for fear of persecution, the Convention definition fails to acknowledge that in some—perhaps

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most—countries, women face persecution specifically because they are women (Castel 1992).

At both the national and the international levels, several policy documents and accompanying statements of intent have been issued over the past decade with the express purpose of ameliorating this situation. The Canadian Women at Risk (AWR) program, implemented in 1988, is one such policy. The *Guidelines on Woman Refugee Claimants Fearing Gender-Related Persecution*, issued in March 1993 by Chairperson Nurjehan Mawani of the Immigration and Refugee Board (IRB) are another. The *Guidelines* were produced out of concern over the omission of gender-specific persecution in the Convention definition. The AWR program, implemented several years before the publication of the *Guidelines*, was designed to "assist refugee

women who are particularly at risk, when this is deemed to be the only viable durable solution for them" (UNHCR memorandum 77/88). Today, only three countries have a Women at Risk program: Canada, Australia, and New Zealand. The United States is currently beginning a pilot project. The *Guidelines*, in turn, are unique to Canada.

The purpose of this paper is to examine and analyze the argument made by the IRB in the *Guidelines*, that women refugee claimants can and should base their claims—under the appropriate circumstances—on the grounds of belonging to a particular social group as outlined in the Convention definition. I am especially concerned with the line of reasoning

advocated in the *Guidelines* for manipulating the Convention definition so that it may better meet the needs of refugee women. Specifically, it is important to consider the ramifications of assigning women refugees to a category that implicitly if not explicitly suggests that gender-specific persecution of women refugees is an aberration of more conventionally acceptable forms of persecution.

Background to the Release of the Guidelines

According to Chairperson Mawani (1993, 7), the *Guidelines* were the inevitable outcome of previous statements of policy issued at the international level, usually via the United Nations High Commissioner for Refugees (UNHCR), concerning the omission of gender in the Convention definition as grounds for persecution. Others, such

> *The gender-neutral language of the Convention definition is deceptive. Hidden within the neutrality is an understanding of persecution, and the grounds upon which it is legally based, that has been formulated by a distinctly male perception of what constitutes a legitimate fear of persecution.*

as refugee lawyer Audrey Macklin (1993, 1; 1995) suggest that the public outcry over the well-publicized rejection of several female applicants who had based their claims on gender persecution led to the issuance of the *Guidelines*. To some extent, both are correct. Recommendations had been made at the international level to accommodate gender-specific persecution through a broadened interpretation of the Convention definition. This, in turn, encouraged the establishment at the IRB of the Working Group on Women Refugee Claimants in 1990, whose mandate was to address the specific problems faced by women refugee claimants (see Ramirez in this issue). In addition, the outcry over the dismissed claims may well have

served to give the IRB a final push to produce a document such as the *Guidelines*.

In 1984, the European Parliament adopted a resolution encouraging states to recognize as refugees women who face persecution because they transgressed the social mores of their communities (Stairs and Pope 1990). Applicants basing their claims on such a transgression, the European Parliament suggested, could be subsumed under the Convention definition category known as "membership in a particular social group." This was the first time such claims were recognized (Goldberg 1993). Shortly thereafter, in 1985, the Executive Committee of UNHCR endorsed Conclusion No. 39, "which recognized that states are free to adopt an interpretation of social group that would include women asylum seekers 'who face harsh or inhuman treatment due to their having transgressed the social mores of the society in which they live' " (Stairs and Pope 1990, 167). Then, in 1988, the International Consultation on Refugee Women in Geneva—echoing the earlier actions of the European Parliament—called upon all states that are signatories of the 1967 Protocol to consider women persecuted on the basis of gender as part of a "particular social group." Finally, in 1991, the UNHCR adopted the "Guidelines on the Protection of Refugee Women," which also encouraged states to recognize claims made by women on the grounds of gender-specific persecution. The UNHCR Guidelines recommended that such persecution could fall under the "political opinion" or, in some cases, the "religious" category specified by the Convention definition (Goldberg 1993).

These policy statements and accompanying documents, with the exception of the 1991 UNHCR Guidelines, reiterate the notion that women refugees can be understood as constituting a particular social group. By the time the *Guidelines* were released in March 1993, it was hardly surprising that rather than advocate that "gender" be added as legitimate grounds for bas-

ing a refugee claim, the IRB recommended instead that, barring other options already stated explicitly in the Convention definition, women refugee claimants should declare themselves as belonging to a "particular social group" in order to justify their refugee status. The IRB *Guidelines* thus follow the precedent set during the 1980s by the European Parliament, the UNHCR, and the 1988 International Consultation on Refugee Women.

Refugee Women as a Particular Social Group

The UN refugee definition acknowledges persecution based only on publicly apparent enumerated grounds that often do not reflect the private reality of women's lives. Moreover, the definition requires a state connection to the persecution feared (Stairs and Pope 1990). Traditionally, argues Goldberg (1993), human rights doctrines—which include the Convention definition—have focused on the human rights of men. The "objective standard" of what constitutes a human rights violation refers to the male experience as the norm. Because this male

point of view has determined the measurement of aberrant behavior, gender-based violations are not accounted for (Ibid.). Examples of gender-based human rights violations are rape (which has not historically been considered grounds for claiming refugee status), dowry deaths (for brides who bring too few resources to their marriage), sati (practice of a widow immolating herself on her husband's funeral pyre), forced marriages, compulsory abortion or sterilization, female infanticide, genital mutilation, and domestic violence, all of which "represent female specific forms of persecution for which there are few male corollaries" (*Guidelines* 1993, 7). As Heise writes in the *Guidelines*, "women are targets of violence be-

cause of their sex. This is not random violence; the risk factor is being female."

The express purpose of the *Guidelines* is to compensate for the Convention definition's omission of gender-related persecution. The opening statement of the *Guidelines* declares gender-related persecution as a "form of persecution which can and should be assessed by the Refugee Division panel hearing the claim. ... The central issue is ... the need to determine the linkage between gender, the feared persecution and one or more of the definition grounds" (*Guidelines* 1993, 1). In reference to the *Guidelines*, Chairperson Mawani writes, "the IRB is seeking to apply the notion of persecution in a way that reflects the reality of persecution against women, an aim not fully envisaged at the time of the adoption of the Convention" (1993, 8).

There is increasing international support, the *Guidelines* (1993, 5) point out, "for the application of the particular social group ground to the claims of women who allege a fear of persecution solely by reason of their gender." The *Guidelines* go on to outline the cir-

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The IRB **Guidelines** *thus follow the precedent set during the 1980s by the European Parliament, the UNHCR, and the 1988 International Consultation on Refugee Women.*

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cumstances under which membership in a particular social group would be the appropriate course for a claim to take. Four factors must be considered when establishing a well-founded fear of persecution by reason of membership in a social group: first, the possibility that a particular social group might consist of a large population is irrelevant; second, that the particular social group suffers, or fears suffering, severe discrimination such that the group can be distinguished from the rest of the general population, *or* from other women (emphasis added); third, that the particular group can be identified by their exposure to violence—including domestic violence—and further, that their exposure as women is due, in part or entirely, to the fact

that they are unprotected; and fourth, that gender can be shown to be the sole reason for feared harm, that the harm is persecutory in nature, and that the claimant has reason to fear a continuation of that harm were she to return to her country of origin in lieu of adequate state protection.

The following example demonstrates the application of the social group category in accordance with the dictates of the *Guidelines*. "Dularie," a woman from Trinidad, fled her homeland for Canada after having been repeatedly beaten for a number of years by her husband. Despite her pleas, the state authorities of Trinidad refused to intervene. Using the particular social group category, the grounds for persecution, theoretically, could be "Trinidadian women" or "Trinidadian women with male partners" thereby justifying "Dularie's" claim for refugee status (Macklin 1993, 17).

In other words, in instances where one's gender appears to be directly related to some form of persecution, such as sexual abuse, genital mutilation, forced abortion, or the practice of "sati," one should claim that one belongs to a particular social group. In this way, women who have experienced, or fear they will experience, any form of gender-specific persecution may be recognized as legitimate refugee claimants.

According to the *Guidelines*, basing a refugee claim on the ground of particular social group is not necessarily the best option. A preferable course of action might be to match a claim with the other four grounds for persecution, i.e. race, nationality, religion, or political opinion. For example, a Saudi Arabian woman, "Nada," was subjected to severe harassment for refusing to wear a veil (Macklin 1993, 1). According to the *Guidelines*, "[a] woman who in an Islamic society ... chooses not to subscribe to or follow the precepts of a state religion may be at risk of persecution for reasons of religion. In the context of the Convention refugee definition, the notion of religion may encompass ... the freedom ... *not to hold* a particular belief system and the free-

dom ... *not to practise* a prescribed religion" (1993, 4). "Nada," then, could base her claim to refugee status on religious grounds.

Critique of Women Refugee Claims Based on the Ground of Particular Social Group

While Goldberg (1993) and, in a qualified way, Macklin (1993; 1995) argue that basing a refugee claim on the grounds of belonging to a particular social group is a poor substitute for what is clearly an instance of gender-based persecution, others (Stairs and Pope 1990) argue that all women should be recognized as constituting a particular social group. On this view, women form a social group because they share certain immutable characteristics and because they are frequently treated differently from men.

Women are also easily identifiable as a group. A combination of biological and social characteristics, then, renders women a particular social group within the meaning of the Convention definition. Castel adds that women, in general, could be understood as forming a particular social group by virtue of their lack of power within most societies. Women may be classified as belonging to the group of "the disempowered relative to men who, as a group, occupy a privileged position in society" (Castel 1992, 52).

The *Guidelines* advise restricting the size of a social group so that it may be delineated from the rest of the population *or* from other women. It is not entirely clear why the *Guidelines* have stressed this. Macklin (1993; 1995) cynically speculates that those who authored the *Guidelines* did so on the assumption that Canada would never qualify as a state that did not adequately protect women from domes-

tic abuse. Had the authors considered this possibility, Macklin suggests, the boundaries between groups of women would become increasingly blurred. In the end, one would probably concede that women, as a whole, could be considered as constituting a particular social group.

At this juncture, Goldberg expresses her disappointment that "gender" was not simply added to the Convention definition of a refugee as a sixth ground for basing a fear of persecution. A new category, she argues, would more fully recognize women who fear or experience gender-specific persecution (1993, 302). Macklin (1993, 29; 1995) writes that "the feature of the *Guidelines* which is most vexing from a feminist perspective is the failure of the Government to simply add gender to the list of grounds of persecution

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The implication is that women refugees, by virtue of being female, are perennial victims and therefore belong to a particular social group; women are thus put in the uncomfortable position of having their biological characteristics determine their helplessness and subsequent legal status.

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rather than opting for a re-interpretation of existing categories." That this course of action has not been taken, claims Macklin (1993), implies that women refugee problems are a subtle variation of men's. Forced abortion, forced pregnancy, or forced clitoridectomy have no parallel in male experience. "Not naming it ... trivializes gender oppression as less damaging than race or religious persecution, and perpetuates the invisibility of its victims" (Macklin 1993, 30). Adds Goldberg, "[a]ll forms of gender-based persecution of women should be recognized by refugee laws. It is essential to a humane asylum policy" (1993, 302).

Macklin qualifies her reaction, however, by pointing to the *Guidelines* suggestion that opposition to institutionalized discrimination may constitute the expression of "political opinion." If this is the case, then a range of possibilities open up to women refu-

gee claimants, allowing them to base their claims on the ground of political opinion. According to Macklin (1993, 32; 1995), "naming women's rejection of subordinate status as a political opinion strikes me as profoundly feminist, if indeed we believe that 'the personal is political' and that patriarchy is a system of power, not biology. So in the end I am not persuaded that employing the category of 'political opinion' is unambiguously inferior to adding the category of gender to the list."

Having established the desirability of basing a claim on the ground of political opinion, Macklin returns to the notion of "particular social group." Women, she observes, are not the only ones left out of the Convention definition of a refugee. For example, persons with disabilities may also be persecuted: "[t]he risk of listing gender as a separate category is that it will give [IRB] Members an excuse to reject people persecuted for reasons of disability by arguing that if the legislator had intended to include disability as a ground of persecution, it would have said so explicitly as it did with gender" (Macklin 1993, 33; 1995). Hence the appeal, for Macklin, of women refugees basing a claim on the ground of particular social group—a very different argument from that of the Guidelines or Stairs and Pope (1990), yet drawing the same conclusions.

I find Macklin's argument in favour of resorting to "particular social group" in claims of gender-based persecution less than persuasive. First, she leaves herself open to her own criticism of "masking" gender persecution with "some other label" (1993, 30; 1995). Second, invoking a particular ground for persecution does not preclude the recognition of other grounds as well. Invoking gender as a ground for persecution does not mean that other forms of persecution do not therefore exist any more than the invoking of, say, religion, as a ground for persecution necessarily implies that race is not, therefore, also a source of persecution. Third, Macklin seems to suggest that persecution is not ac-

knowledged as such when aimed at someone who is disabled. Because Macklin does not refer to any examples of such cases, I remain sceptical of the pervasiveness of this problem. On the other hand, examples of women suffering unrecognized forms of persecution, such as rape, abound. Hence the need for the Guidelines in the first place.

I believe it is more likely that women will be equated with "particular social group" in a broadened interpretation of the Convention definition, than that gender will be incorporated into the UN definition of a refugee as a sixth ground for basing a fear of persecution. As mentioned above, the Guidelines specify that, for women refugee claimants to accurately base a fear of persecution on the grounds of belonging to a particular social group, that group should suffer, or fear suffering, severe discrimination such that the group can be distinguished from the rest of the general population, or from other women. The word "or" suggests that, should the group be indistinguishable from other women—in the manner, for example, described by Castel in which women, in general, can be thought of as "disempowered relative to men"—an argument could still be made justifying the use of particular social group as a legitimate basis for a refugee claim concerning gender-specific persecution.

The "particular" group classification strongly implies that women be categorized and sub-categorized in a manner suggesting that refugee women, despite their majority status among the global refugee population, are an aberration from the norm, as Macklin initially suggests. The implication is that women refugees, by virtue of being female, are perennial victims and therefore belong to a particular social group; women are thus put in the uncomfortable position of having their biological characteristics determine their helplessness and subsequent legal status.

In addition, the classification of women as a "social" group is deeply problematic. Phelan (1989, 57) claims

that one cannot speak of Women as a specific social entity. To do so is to ignore class and cultural differences. To suggest, as Castel (1992) and Stairs and Pope (1990) do, that women in general may constitute a particular social group reveals a certain cultural image or stereotype that is affixed in our society to a specific arrangement of anatomical features. Feminism, cautions Butler (1990), sometimes entails an urgency to establish a universal status for patriarchy, what Butler (1990, 3) calls a "fictive universality of the structure of domination, held to produce women's common subjugated experience." It is this professed "common subjugated experience" that permits, at least in part, the categorization of women as a social group. However, as Butler points out, the political task for feminism is not to refuse representational politics—which, for the purposes of this paper, I think of in reference to the representation of women as a social group for the sake of the political process of refugee determination—since "juridical structures of language and politics constitute the contemporary field of power" (1990, 5). Butler suggests that, instead, one may posit a critique of the categories of identity that "contemporary juridical structures engender, naturalize, and immobilize" (1990, 5). This is precisely where Castel (1992), Stairs and Pope (1990), and even Macklin (1993) fall short when they, each in her own particular way, group women together as a single social entity either epistemologically (Castel) or legally (Stairs and Pope; Macklin; the Guidelines).

So, although they may be labelled as a "particular social group," women are, in fact, no such thing. The label is affixed in order to steer women through a system which, in part because of the very methodology advocated by the Guidelines, remains profoundly masculinist in outlook. As long as this is the case, claims put forward by women refugees in response to gender-specific persecution will continue to be regarded as something derivative from the norm and, assuming that one's biology dictates one's

social status for the sake of the legal system, women will continue to be beholden to their biological functions in order either to acquire or to maintain legal legitimacy. One can conclude, therefore, that the *Guidelines* accept the masculinist framework entrenched within the Convention refugee definition. Consequently, getting some refugee women claimants through the refugee determination process will depend heavily upon the individuals interpreting the definition.

Nor is the ground of political opinion, as suggested by Macklin, and the 1991 UNHCR Guidelines, a happy alternative. Although I find arguments in favour of political opinion as grounds for persecution less compromising than those for particular social group, there are still some difficulties in describing gender-specific persecution in this manner. Macklin's use of the term "political" is sufficiently broad as to risk rendering all other grounds of persecution superfluous. Because she refers to patriarchy as a system of power (1993, 32; 1995), there appears to be a connection between the use of the word "political" and an understanding of power relations, in this instance between genders. All refugees, however, suffer from a power imbalance. This state of being is not peculiar to women refugees. What is specific to some women refugees is the way in which the power imbalance manifests itself and whether or not this manifestation will be recognized as persecutory in nature. As Butler (1990) notes, one can question the universality of gender identity and masculinist oppression, both of which assume a shared epistemology and shared structures of oppression, which need not be the case.

While "the personal is the political" is a popular—and often appropriate—phrase within western feminist discourse, it is not obvious to me that refugee women themselves would necessarily provide a similar description of their actions, behaviour, or victimization. It is tempting, as Razack (1995) writes, to tell stories in a manner that will appeal to those in a position to make decisions on refugee claims. Such an approach can take on subtle forms, "as when the cultures of refugee women are presented as overly patriarchal."

In sum, it is inaccurate, to say the least, to group women together on the basis of social factors, and it is inappropriate and demeaning to classify them on the grounds of biological factors.

Conclusion

"Is the construction of the category of Women as a coherent and stable subject an unwitting regulation and reification of gender relations?" asks Butler (1990, 5). Does the notion that women refugee claimants form a particular social group maintain a framework that is potentially damaging, or that perpetuates, inadvertently, a power/gender imbalance which endorses the subordination of women refugees within the overriding male refugee definition and experience?

My concern is that by legally defining women as a particular social group, women's powerlessness and marginalization are ensured. It is these very characteristics which allow women refugee claimants to qualify for particular social group status. In a strange way, then, the disempowerment of women is cultivated in order to legitimate, in the eyes of decision makers, their fears—both realized and potential—of persecution.

Men, it must be noted, are not classified as a particular social group. That this is so brings to mind an observation made by Butler (1990, 20), who, referring to Wittig (1983), writes that "gender is used in the singular, because indeed there are not two genders. There is only one: the feminine, the 'masculine' not being a gender, for the masculine is not the masculine, but the general." The legitimacy of claiming gender-specific persecution should not rely upon the subordination of women as a whole.

Gender-specific persecution, I believe, should stand alone as a recognized basis for persecution from which some, but luckily not all, women suffer. ■

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Canada's Response to the Issue of Refugee Women: The Women at Risk Program[1]

Noreen Spencer-Nimmons

Historical Overview

Refugee women emerged as a social issue during the decade 1978–88 as a result of a series of historical events. Beginning in 1978, there was an increased number of refugees in the world, and among these, women and children began forming the majority in refugee camps and holding centres; some refugee-receiving countries, such as Pakistan, built "widows' camps." In the same decade, there was a marked increase in the number of churches and other nongovernmental organizations (NGOs), whose global outreach to refugees focused on development projects overseas and sponsorship programs at home. En route to overseas refugee sites, women often attended meetings with immigration staff, intergovernmental, and international nongovernmental organizations, and visited international headquarters of these organizations in Geneva, Vienna, Washington, and cities in Latin America. They became involved with the United Nations High Commissioner for Refugees (UNHCR) and the Division for the Advancement of Women at the United Nations Office Vienna (DAW/UNOV). Network contacts expanded among advocates of human rights and women's rights as information was relayed back to Canada from official and informal channels and filtered down to provincial and local offices, grassroots organizations, advocacy groups, and refugee coalitions.

Networks are a critical resource in moving a social issue forward: they sponsor meaning, reinforce collective identity, and function as an accessible

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background structure of resources. This was the case when pre-existing links and organizational ties, developed by those women committed to gender issues in the 1900s, sprang to life again in the collective action of the participants in the 1960s' women's movement. As Phillips notes (1991; 761, 780), Canadian women's resources were remarkable because of the "number, strength and diversity of organizations formed at the national level." From the 1960s to the 1980s, these loosely coupled, intergenerational and cross-organizational "networks of action-based relations were very efficient in moving information and coordinating action with minimum resource costs" to the Ottawa hub, the National Action Committee for the Status of Women. Information and organizational strategies were taken back through the network to

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groups in urban centres and rural communities. Despite lulls during the 1975–85 Decade of Women, resources remained accessible. This was especially noticeable when they were reactivated in 1985 at the UN Nairobi Conference marking the end of the Decade of Women. Members of the National Action Committee used sophisticated technology and international media contacts to develop control of the issue of refugee women; some could tap into circles of power and influence policymakers.

Historically, two other factors were critical in moving social issues concerning refugee women forward: the timeliness of the 1985 UN Conference in the context of contemporary world events, and the location. Nairobi was a

dramatic meeting place for women attending government and NGO forums; Africa had become the largest refugee-producing region in the world and many women were involved in NGO projects there. A coalition of committed women's groups produced a document entitled "Forward Looking Strategies to the Year 2000" which included specific reference to refugee women. The coalition began organizing a global lobby, making use of studies developed by major churches and vigilant NGOs to change the perceptions of policymakers by accumulating factual data on human rights violations against women (Anglican Church of Canada 1986; Amnesty International 1988).

Earlier, Canada had demonstrated a commitment to provide humanitarian assistance, first, through a Designated Class (DC) clause promulgated in 1978, which extended assistance to groups of people not necessarily covered by UN Convention Refugee (CR) status; second, by the large-scale application of the DC clause to the Southeast Asian "Boat People;" and third, by responding to pressure from the private sector and working out a plan in which the government sponsored one refugee family for every one sponsored by the private sector. Large numbers of refugees were sponsored through this matching formula. The Nansen Medal for humanitarianism was later awarded to Canada and the Canadian people. Thus, beginning in 1985, a great deal of political pressure was placed on Canada by women activists the world over, who expected the country to live up to its humanitar-

ian commitment to women refugees in dire need. Overseas, pressure came from Canada's working partners at the UNHCR and DAW/UNOV. Domestically, there was pressure from refugee workers and human rights advocates, including private sector volunteers, who expected their accountability in sponsorship and resettlement projects to influence policymakers.

Canada's Response

To respond, Canada had to consider the policies of its international partners, such as those of the UNHCR for peace and protection, cross-border relationships with the United States, External Affairs' position on foreign policy and diplomatic relations, Canada Immigration (Refugee Affairs Division) stand on admissibility procedures and annual intake levels, the humanitarian concerns of its constituent members, and economic and political responsibilities in immigration law and policy. These issues were in addition to the practical complications of revising policies to include a gender component.

Ottawa began with a structural review of past policies and refugee admission criteria. This involved the UNHCR, both overseas and in Canada, and two ministries: the Department of External Affairs and Canada Immigration (Refugee Affairs Divison). At that time, the involvement of the two ministries dealing with refugee policy and procedures was complex and often perceived to be a hindrance (Dirks 1980); however, it may have been an advantage in this review, which focused on a gender component.

The Department of External Affairs, for example, had a controlling mandate over the Immigration Department and other government units, such as the International Women's Equality Division. The link between development and equality and the Canadian International Development Agency (CIDA) was complex in itself because of two subdivisions of critical importance to women and women refugees: the Human Rights Division,

which worked through the Department of External Affairs, and Women in Development, which dispensed funds to the churches and NGOs to design and operate programs for women in Third World countries.

In responding to the challenge of refugee women, Canada had to consider a sub-category of women within the sub-category of refugees and this involved moving through the politically complex process of acknowledging:
1. the protection of refugee women in life-threatening situations;
2. Canada's humanitarian role in the world in offering protection;
3. problems in previous criteria relevant to women refugees; and
4. financial considerations of direct payments overseas or transfer payments to provincial ministries and NGO implementing partners.

One consideration led to another as a special program began to unfold. A policy was needed that would recognize that refugee women and young girls who were alone in camps were particularly vulnerable to violation and exploitation. These would include women whose protection structures were missing both inside "the refugee community" and who could be vulnerable to "elements outside the refugee community," women who may be outcast, and women who were experiencing special difficulties in adjusting to a new culture (internal NHQ memo IS3.52, 1).

The latter brought into question immigration policy relating to refugee admissibility and eligibility criteria under the Convention Refugee and Designated Class categories (CR/DC1, CR/DC3, and CR/DC5) with a specific reference to women. Two of these categories involved private sector sponsorship and adjustment assistance programs. Thus, the government had to consider the mood of NGOs as implementing partners to make the program work in rural and in urban locations across Canada. As well, differing ideologies and cultures in government bureaus and NGO offices affected perceptions and expectations

by each group of what ought to be done by the other.

Admissibility

Under the CR/DC1 category of government sponsorship, admissibility criteria presupposed prior qualities that assisted a refugee in the resettlement process, such as the ability to find a job with only basic federal training assistance in order to repay the one-way travel loan advanced by the government, and to achieve self-reliance within one year. New guidelines would have to advise responsible parties overseas and domestically that a "certain relaxation in admissibility criteria" would be necessary; refugee women who qualified should be assessed on a sliding scale so that "the greater the need for protection, the lower the threshold which the applicant should have to meet in terms of potential for successful establishment in Canada" (NHQ memo IS3.52, 1–2). This humanitarian stance reduced the gap between CR and DC status by accepting that admissibility criteria may have been too stringent in the case of some refugee women.

The CR/DC3 category referred to refugees likely to become self-sufficient within one year of date of arrival, with the support of a sponsoring group. The government provided transportation loans, emergency medical assistance, job referral assistance through its employment centres, language and occupational training. The sponsoring organization assumed resettlement responsibility. Sponsorship groups were generally supportive of CR/DC3 because it meant that more refugees could enter Canada, over and above those "provided for in the Annual Refugee Plan ... [and would] receive all necessary material assistance: accommodation, food, clothing and incidentals, for a period of one year from the date of arrival in the community or until the refugee becomes continuously self-supporting, whichever is less" (CIC 1978).

Refugees were also supported by the Adjustment Assistance Program fund and linked to the Host Family

Program. In the 1980s, a community group, usually an "immigrant services" organization, received up to $50,000 to administer this program. Within two to four days of the refugee family's arrival, a volunteer host family was "matched" based on the refugee's "need, gender, age, marital status, family size, and language capabilities." Sustained personal contact with the private sector provided orientation, and social and moral support served the important function of bridging the gap between the state and the individual. Most women at risk and their children would be in particular need of this benefit (Internal NHQ memos IS3.52, IS3.61).

The DC5 category referred to government/private joint sponsorship of

they continued to need assistance (from Joint Assistance or Adjustment Assistance Programs), and further negotiation could occur at the provincial level if cases extended beyond two years.

Eligibility

The Canadian review process considered that "some deserving female heads of family" were being rejected because their "eligibility hinges on an absent male, or because their ability to settle is hampered by dependent children, poor ability in either official language, poor job skills, or a combination of these factors." Under a new program, eligible refugee women "in dire need" would be assessed. They would have to be "at special risk in countries

Refugee Affairs in Ottawa, an interview with the identified woman would be arranged, along with medical and background checks and the assurance of a willing Canadian sponsorship group. Refugee Affairs would telex officers overseas to initiate a Destination Matching Request (DMR). The DMR provided relevant information that would assist the Settlement Branch to identify a specific sponsor. Refugee Affairs would play the coordinating role, maintain careful records, track the cases from first identification by UNHCR Protection Officers overseas, and provide the UNHCR Ottawa Branch with regular status reports.

NGOs kept pace with the review and many women workers registered their input. In Ottawa, the major concern of those drafting new policy guidelines was to get departmental approval of the concept, based on need, so that the program could become operational quickly.[2] A pilot phase of the "Women at Risk Program" (AWR), was launched in November 1987 and officially adopted in February 1988.

Eligibility was conditional on an agreement on identification between UNHCR Branch Offices and Canadian immigration posts overseas. The latter could identify cases themselves, but it was recommended that officers discuss and agree on cases with UNHCR branch offices.

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refugees who are part of the Annual Refugee Plan. Government funds can be extended through the Joint Assistance Program if resettlement problems are greater and require more time such as those, for example, affecting the elderly, disabled, illiterate, and unemployable persons. The CR/DC 5 could be extended to include Women at Risk who "are not likely to become self-sufficient without the extensive assistance available under the Joint Assistance Program. These applicants should be considered to be particularly disadvantaged culturally and/or socio-economically" (NHQ memos IS3.52.2, IS3.53.1). In addition to matched benefits, CR/DC5 refugees were eligible for a monthly allowance paid by the government. Joint sponsorship allowed an organization to help refugees who "would not normally be admitted without assurance that such special assistance would be forthcoming from the sponsoring group" (NHQ memo IS3.61). Women at risk cases would be subject to review at the federal level if

of first asylum and ... in urgent need of resettlement" (NHQ memos). To enter Canada under any CR/DC sub-category, they would have to qualify under the Convention Refugee definition. Exactly how CR status would be gained was problematic because of the universality of the UN Convention and its lack of specific focus on women, gender, and social group persecution. Canada's DC category could overcome the problem in and of itself, partly because the clause did not dismiss gender (or recognize it) as a designation category but, more importantly, because DC and CR status became entwined in Canadian immigration law in 1978 and status could be settled inland.

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NGO Support and Concern

Advocates, NGOs, churches, and immigrant services delivery organizations welcomed the AWR program. Inspired by the international political lobby and action plans for refugee women's issues which emerged at Nairobi, NGO members of the Canadian Working Group for Refuge Women (WGRW), a subgroup of the Canadian Council for Refugees, made their support and concerns known by meeting with officials at all three levels of government. Many of these women were in charge of refugee desks at the national headquarters of churches, and were active in inter-church coalitions and social groups feeding into the National Council of Women. Women in government positions included those directly assigned by Refugee Affairs to design the program in consultation with women in CIDA's Human Rights and Women's Rights divisions, UNHCR, External Affairs,

and other ministries, including Status of Women and Citizenship and Multiculturalism. It was an era of cooperation.

However, some NGOs thought the government perceived AWR women to be a burden rather than resourceful, flexible, and determined individuals who utilized scarce resources carefully in order to reconstitute self-esteem and family life (Spencer-Nimmons 1986, 1994; Wong 1987; Coomarasamy 1988; Sirisumbhand Gordon 1990). In November 1988, NGOs, in accordance with their accountability in sponsorship, emphasized that they would assist the AWR women. The WGRW was relieved that the AWR program was in place, but made a formal statement through the Executive of the Canadian Council for Refugees (CCR) that they supported the AWR program and "regular refugee programmes (government assistance, joint assistance and private sponsorship of women and their children)." They wanted to increase the "total intake of refugee women to more adequately reflect the resettlement needs of the global female refugee population," to increase resources, allocate them equitably, and for "refugee women to be involved in the design and development of creative and innovative resettlement programmes" (CCR 1988, 4).

NGOs and churches involved in refugee sponsorship were concerned that too much time would be spent establishing the eligibility category of a refugee woman whose life was in extreme jeopardy. Even if a Minister's Permit was issued and the woman airlifted to safety, she would have to file a claim and join the backlog of cases awaiting a hearing by the Immigration and Refugee Board. What would this add to her pre-migration trauma? How would her psychosocial well-being be measured and reported, and her resettlement progress monitored?

In the Pilot Project phase, nine cases of government-sponsored "Women at Risk" entered through the CR/DC1 category—women with the least pronounced resettlement problems. They tended to be educated, fluent in Eng-

lish and/or French, familiar with Western lifestyles, had some job skills, and were unencumbered by dependants or disabilities. In 1988, eight cases entered in the CR/DC3 private sponsorship category and 22 cases were admitted in the CR/DC5 category, in which the greater Joint Assistance Program needs, transfer funds to NGOs, and tax credits were supplied. Some of the major NGOs received up to 90 percent of support funds from federal, provincial, and local levels of government.[3] The NGO's implementation of sponsorship and Host Family programs also required significant human and financial resources; community members handled a great deal of the work and responsibility. By the end of 1988, NGOs became concerned about the low number of AWR cases accepted by NHQ Ottawa. They challenged the wording of a program guideline, "will attempt to solicit," because they felt they had sufficient sponsorship commitment among their organizations and private sector Host Family volunteers to handle more cases. Canadian visa officers overseas had problems, including rejections from Ottawa. They perceived internal control by Ottawa, despite the "no ceiling" advertised. Officers complained of scarce resources; there were too few officers in the field and caseloads were high. This made it impossible to identify and expedite cases quickly, according to a memo from Refugee Affairs in 1987. The ambiguity of mixed ministries dealing with refugees had a negative effect on staff overseas, who felt that competition and conflict between the Immigration Department and the Department of External Affairs, which had the controlling mandate over the former, left them caught in the middle trying to satisfy two masters. Since the overseas staff often had to make independent assessments, any mistake might mean that neither department would support them. NHQ Ottawa was concerned that NGOs involved in joint sponsorship were "naming referrals ... at issue is the perception by visa officers that this undermined humanitarian intent" (CIC 1991, 4).

NGOs argued that visa and protection officers, both overseas and inland, needed gender-awareness training. They perceived that most officers had poor understanding of gender-specific needs and that the experiences of refugee women were therefore not fully understood. They claimed that because visa officers took applications in camps and recommendations from UNHCR officers, independent criteria and political suitability were often used rather than applications that identified dire need.[4] In that context, "mistakes are easy to make, impossible to correct and catastrophic once made" (Matas 1989, 11). Activists in working groups overseas and inland wanted risks for all women refugees reduced at source. Their concerns energized the international web of women's networks; activists in North and Central America and elsewhere joined forces in insisting that one single program could not address the real issue—that risks for all women refugees be reduced at source. Pressure was then brought on the UNHCR to develop training, protection policies, and security systems in camps with input from refugee women themselves.

Statistical Record and Preliminary Evaluation

Nevertheless, Canada's response to the issue of refugee women was hailed by human rights advocates around the world, and the lives of many women and their children have been saved. From 1988 to 1994, the six major countries of origin in cases referred to Destination Matching NHQ in Ottawa were Vietnam, Ethiopia, Somalia, Iran, El Salvador, and Laos. There were thirty visa posts listed, from Abidjan to Warsaw; the top seven of these were Nairobi (226), Bangkok (110), Guatemala City (66), Cairo (62), Manila (61), Lisbon (61), and Tel Aviv (57). There were 294 cases involving 828 people (women at risk and their children): 44.5 percent of the cases were from Africa, 33.6 percent from Asia Pacific, 11 percent from the Middle East, 8.5 percent from Latin America, and about 2 percent from Europe. The intake peaked

in 1991 (33.6 percent), and was followed by an overall decline in the number of cases to 21 percent by 1992, then to 17 percent in 1993 (Refugee Affairs Statistics 1994).

Certain factors emerge when the statistical data are broken down into two time periods. Between 1988 and 1991, there were 183 cases involving 461 people, none of them from Europe. Forty percent of the cases were from the Asia Pacific region, 37.7 percent from Africa, about 13 percent from the Middle East, and 9 percent from Latin America. Between 1992 and 1994, there was a marked decline, from 40 percent to 27.9 percent, in the percentage of women from Asia. This probably reflects Hong Kong's political concerns about mainland China rule in 1997, local integration, and the initiation of UNHCR's new "Voluntary Repatriation Program." Elsewhere, cases from Latin America and the Middle East declined by less than one percent, while cases from Africa increased by

56 percent. This suggests a heightened awareness of African politics, the continuing refugee crises on that continent and the likelihood of NGO sponsorship of groups now established by African refugees, who had arrived in Canada earlier.

Private sector sponsorship of refugees, which dipped in 1981, began to increase slowly but, beginning in 1988, jumped to 48 percent (12,247 to the government's 13,464), and then to 61 percent in 1989 and 1990. NGOs were sponsoring refugee women at risk as well as refugees with special needs, the disabled, and unaccompanied minors. Joint Assistance Initiatives reflect these activities, as shown in Table 1. It includes the actual arrivals of women at risk in Canada between 1988 and 1994.

Conclusion

The AWR program was implemented as a life-saving measure. It acknowledged that many refugees who are

women are at particular risk. Thus, it addressed gender conflict and the human rights of women through the revision of former immigration and refugee criteria, and allowed certain refugee women to enter Canada without qualifying under previous, stringent criteria. To some extent, the AWR took into account the resources of women who might become self-sufficient and resettle quickly, and the needs of those suffering from pre-migration trauma and other cultural problems that might prolong their resettlement. It acknowledged the cooperation of NGO implementing partners in helping to make the program work.

The government had some concerns about NGO and private sector facilitation that did not meet government expectations (although these concerns have not been spelled out in a public document). The department stood by its earlier promise to conduct an internal review of the program. The review provided an overall evaluation, in which the participants expressed the view that the program was worthwhile and should be continued because it offered resettlement opportunities "as an instrument of protection" (CIC September 1994, 16). The review concludes that selection criteria based on admissibility still remain open to question and need clarification; it acknowledges concerns about processing time, communication among ministries, departments, overseas posts, sponsors, monitoring, and the quality of NGO services (ibid.).

In the perception of NGO implementing partners, the AWR program still does not fully acknowledge the resources that refugee women bring to resettlement, nor does it recognize that resettlement programs should be tailored more specifically to women's needs. Members of the WGRW, which included women in government agencies, NGOs, academia, and advocacy organizations, offered to cooperate with the UNHCR and the Canadian government in designing a monitoring system and strategies that would ensure that a humane and equitable ad-

Table 1: Joint Assistance Initiatives and Actual Arrivals, Women at Risk, Special Needs, Disabled, Unaccompanied (UA) Minors during 1988-94

Year		Women at Risk	Special Needs	Disabled	UA Minors	Total Arrivals
1988*	Cases	40	17	4	0	61
	People	97	91	14	0	202
1989	Cases	0	5	4	2	11
	People	87	197	14	26	324
1990	Cases	28	63	7	14	112
	People	67	244	29	15	355
1991	Cases	65	62	7	13	147
	People	140	316	12	13	481
1992	Cases	36	39	2	0	77
	People	111	175	6	0	292
1993	Cases	51	24	2	2	79
	People	153	93	2	2	250
1994	Cases	7	11	0	0	18
	People	29	34	0	0	63
Total 1988-94	Cases	227	221	26	31	505
	People	684	1,150	77	56	1,967

*The 23 cases referred during the pilot phase are reflected in 1988.

Source: International Refugees and Migration Policy Branch/ Humanitarian and Resettlement Policy Division November 1994.

aptation process was implemented. To date, no cooperative government-private sector monitoring system has been developed. Instead, the government expected "regions to monitor sponsorships at certain minimum levels," with regional settlement officers establishing guidelines within their jurisdiction. About 50 percent of the cases are monitored, and CIC representatives cite inadequate resources. Where monitoring is in effect, field staff report that it provides valuable feedback, direct contact with refugees, reassurance to sponsors, and the opportunity to assess future sponsorship (CIC September 1994, 10). While the AWR program reflects the continuing synergy between the Canadian public and private sectors, it also points to the fact that the government may be underutilizing private sector NGOs and community workers and thus may not be achieving a full assessment of the progress on resettlement needs of all refugee women at risk brought to Canada. However, a preliminary analysis shows how difficult it is for one small Canadian program to cope with the huge populations of refugee women in the world. This is especially true in view of the fact that in Canada, the AWR functions as a small satellite of the overarching immigration and refugee bureaucracy for dealing with refugees. The weight of bureaucratic complexities in Canada is doubled when overseas components are factored in.

Nevertheless, there are three major reasons why advocacy groups were proud that Canada had made the first response to an international issue:

1. it set a precedent and acted as a model for other countries;

2. its signal role substantiated the need to combine protection and assistance for refugees who are women; and

3. historically, Canada's response acknowledged, *by law*, the need for a gender component in situations of forced immigration.

The fact remains that one program can get lost in this maze despite everyone's best efforts, and women's con-

cerns, which have always had low priority, tend to be threatened more than ever. Women's advocacy groups are preparing for the 1995 International Women's Conference in Beijing; once again, they are pressuring governments for support through their expansive web of network associations.

Clearly, from the earliest advocates of women's issues in the 1900s, through intergenerational and organizational structures during the Decade of Women, 1975–85, and into the 1990s, these networks have helped to sustain a collective identity by building on the meaning of women's identity and continuing to make an international statement that equality, protection, development, and human rights are all women's issues and at the heart of women's advocacy work. ∎

Notes

1. This paper extracts and extends material from a chapter in my dissertation, "The Emergence of Refugee Women as a Social Issue: 1978–1988."

2. Conversation with Trudy Kernahan, Refugee Affairs, who was previously in a field office overseas and was given credit by Jasmine Pankathy (Acting Chief of Programmes) for writing the guidelines. Ms. Kernahan was the first coordinator of the project.

3. Information gathered during a Western Canada NGO immigrant services conference in Vancouver, June 1990, at which government representatives were present.

4. Kathleen Ptolemy letters and private communication with the Director of MOSAIC, Vancouver, B.C.

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Abused Refugee Women: Trauma and Testimony

Inger Agger

This paper discusses a number of issues generated by my experience as a therapist and a researcher in the area of human rights violations against women. I am especially concerned with issues of ritual space, gender, testimony, and victimization. As coordinator of psychosocial projects for war-traumatized women and children in the former Yugoslavia, I have witnessed the extensive use of sexuality as a repressive tool against women, namely the very high incidence of rape that is used as a weapon of war directed at both the women themselves and at their families and their people.

With respect to the issue of ritual space, I will discuss how I attempted to create such a space during interviews with 40 traumatized refugee women and in my own subsequent writing. Next, I will consider the gender-specific abuse of women, which falls within the realm of human rights violations of women. I will also outline some of the ways I have used testimony therapeutically within a ritual space. Lastly, I will look at some issues connected with sexual victimization—focusing in particular on the problem of complicity and the power of shame.

I use the concept of human rights based upon the United Nations Universal Declaration of Human Rights as my point of departure. This perspective focuses on universal cross-cultural rights and, in the case of refugee women, it directs attention towards universal similarities instead of cultural differences. Moreover, the ethical dimension of universal human rights has implications in my therapy practice: it places the blame outside of the victim, and also forces the therapist to take a moral stand. I find that the

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concept of human rights can serve as a sort of epiphany for both patient and therapist. For many refugees, it comes as a surprise that they have any rights at all. They are surprised to discover that the international community has accepted their right to a dignified life. Such revelations may be the first step in a consciousness-raising process, or a process of post-traumatic therapy. Growing awareness of the ethical dimensions of the human rights concept may also be the beginning of a consciousness-raising process for the therapist. There is increasing discussion in the field of post-traumatic therapy of how we, as therapists and researchers, react to horrifying and traumatic stories about deliberate human rights violations. How do we—who are supposed to be the victims' helpers and counsellors—manage our own pain?

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Human rights violations are a worldwide problem. Violations of women's rights are widespread and growing in the industrialized societies of the West, in the developing countries and, of course, in the former Yugoslavia where I worked. Therapists working with victims of trauma encounter women and girls who have experienced gender-specific human rights violations—be it refugee women who have been sexually abused in camps, in their homes or during flight, or Western victims of rape, wife-battering, incest, or prostitution. Therapists and researchers are, therefore, confronted with the problem of how to create a space which becomes healing for both the victims and the therapist, a space that will al-

low the victim to become a survivor, and the therapist or researcher to convert his or her own pain into a struggle for human rights.

I had worked for five years as a therapist for torture victims when I decided that I needed to translate some of my experiences into theory and additional research. The research project I planned was governed by an attempt to understand some of the strange and terrifying experiences which my female patients had told me about, in particular, the use of sexuality as a means of torture in the political prisons. But it was also governed by an attempt to rid myself of some of the evil I, as a therapist, had to confront in the women's stories. It was an attempt both to purify myself by giving meaning to the unbelievable stories I had heard as well as to offer my own testimony of what it feels like to meet deliberate human evil. The research project involved interviews with 40 refugee women (20 from the Middle East and 20 from Latin America) and, inevitably, I was again experiencing the therapist's problem of containing the trauma story as all the women told me their life-stories. Although I was now acting as a researcher, it did not make much difference. For one thing, I could not just forget my clinical background. Secondly, my clinical background was very valuable for the interview process, because it gave me the courage to explore parts of the trauma story that were important to document from a theoretical and human rights point of view.

So I tried to create a ritual space, which I called "the blue room." In fact,

the walls of the room in which I carried out the interviews were painted blue. But I also use "the blue room" as a metaphor for the space in which the interviews took place. In this room the woman and I together created a space which I, inspired by the anthropologist Kirsten Hastrup (1987), have called "the third culture." While we might come from different cultures, in the blue room we created something new and different—a third culture—to which we both contributed. It was in this context that the story was told by her and heard by me.

At the beginning of each meeting in the blue room I would explain the purpose of my research project, namely to learn more about the special conditions of refugee women and to publish this information, so that people in asylum countries might know more about the human rights violations perpetrated against women. I would also disclose information about my own background: that I had worked for several years as a therapist for torture victims, and that I was not "neutral" as a researcher. I expressed my opinion that it was important that the world know what happens to women. In this way I tried to establish an atmosphere of compassion and solidarity.

An important component of the ritual space of the blue room was the tape recorder. I began each interview by testing the tape recorder. For this test, I had the woman say her name, age, and nationality. I would then play the tape back. Together we listened and confirmed that the woman's voice was recorded, and that it could be heard in the blue room. Then we started recording the interview. The woman being interviewed then knew that *her* voice and *her* name could be heard. We were ready to start her testimony.

In the meetings with the refugee women in the blue room, I used testimony as a research method. Thus I attempted to unite the use of testimony in the consciousness-raising groups of the women's movement with experiences from my therapeutic training and my work with testimony as a

transcultural therapeutic method. The use of this method implies that research and therapeutic processes can overlap. For victims of human rights violations, testimony has a special significance because it serves as a documented accusation and a piece of evidence against the repressive system. "Testimony" as a concept has a special, double connotation: it contains objective, judicial, public, and political elements, as well as subjective, spiritual, cathartic, and private ones. Testimony thus has the capacity to unite the private and the public spheres (Agger and Jensen 1990).

In Chile during the dictatorship, testimonies were used for registering and denouncing extreme examples of torture. The victims' stories were taped, transcribed, and sent to international organizations as evidence against the dictatorship. Gradually, the therapeu-

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tic value of the method also became evident and a series of reflections started on the possibilities and limitations of such a method for the healing of emotional wounds resulting from torture. Psychologists Eugenia Weinstein and Elizabeth Lira (Weinstein, Lira, Rojas et al. 1987) observed that giving testimony alleviated symptoms and transformed a painful experience into a document that could be useful to other people. It was not only cathartic, but also acted as a political and legal weapon against the aggressors. In this way, some of the aggression that the abuse had created in the victim could be redirected in a socially constructive manner, thereby breaking a self-destructive spiral. "It is a paradox," Weinstein and Lira noted, "that the testimony in some ways is a complete confession—that which they tried to extract by means of torture and which the subject protected at the cost of his

or her pain. But now it is an act which is inscribed in the original existential project. The information will not be used against the comrades, but, rather, against the torturers" (1987, 67). During the interview process, I did not meet any women who refused to give testimony. On the contrary, they seemed to find it important to provide this "confession" against their oppressors.

All the women had suffered human rights violations. Some had been in prison and had been tortured, others had close relatives who had been tortured or murdered, still others had been forced to leave small children with relatives in their homelands in order to leave quickly and save their own lives. Some had lived clandestinely for long periods in their own countries before they could get out. After arriving in Denmark, many had lived for months in refugee camps anxiously waiting for asylum to be granted.

Nearly all the refugee women in my research project had made themselves "visible" through their political activity. They were well-educated and anxious to talk about the conditions in their homelands. In this way, they could describe in vivid detail the circumstances of their own lives and of those of their silent sisters in poorer conditions.

Through their testimonies, I tried to understand how sexual abuse of women who belong to a certain "dangerous" group is connected with the surrounding sexual and political power structure and with the historically transmitted definitions of "the shameful" and "the unclean." This could, I thought, add to the understanding of the paradoxical feeling of complicity that can arise in a person

who is subjected to sexual as well as other forms of abuse.

It was my hypothesis that an understanding of the social and psychological dynamics of this problem of complicity would provide greater insight into one's own counselling practices with women who have suffered human rights violations. It would also allow for a better understanding of the dynamics of other forms of sexual trauma, e.g. rape, incest, and women battering.

Once the interviewing process was completed, I transcribed those parts of the women's testimonies which I found relevant to the questions I had proposed in my research project. This left me with pages of testimonies and I was alone in the blue room with my collection of trauma stories. It was now up to me to write my testimony of what I had seen, heard, thought, and felt.

I chose then to expand the ritual space of the blue room into the written text by using two key metaphors: rooms in a house, and boundaries between spaces. The blue room was the space in which the interviews took place. There is also the "mother's room," the "father's room," the "cell," the "children's room," the "living room," and the "veranda." Each room represents a different kind of experience and relationship in the women's lives. The metaphor of boundaries, especially crossing boundaries, symbolizes the problematic danger in the lives of the interviewed women.

I wrote my narrative in a certain style in which I used metaphorical language as a way of expressing my own counter-transference reactions. I thus attempted to heal the trauma in the ritual spaces of each room. In the last chapter, "The Veranda," I created a metaphorical healing circle in which I let the voices of the women speak to each other—in this way suggesting that one important tool for healing is for the victims to get together in such ritual spaces as a way of giving testimony in an atmosphere of compassion and understanding.

The testimony of the refugee women expressed a virtually universal pattern of female oppression. This universal pattern expresses itself in a whole range of human rights violations against women, such as rape, wife battering, incest, and prostitution. The common characteristic of all these forms of gender-specific abuse is the violation of the woman's right to her own body—to her physical and psychological integrity—and ultimately to a life of dignity. The gender-specific issues in all these examples of human rights violations of women revolve around sexuality and the way in which it is used as a means to control, exploit, and punish women.

In women's lives, in most parts of the world, the significant definitional spaces are those which are connected with sexuality and reproduction. It is, therefore, also within those definitional spaces that the social and political control of women is exercised. I see these mechanisms of social control of dangerous, i.e. vocal, women as clear-cut examples of the social control that also governs the lives of their more silent and invisible sisters.

If women leave the private sphere to enter the public one, speak up and become visible in, for example, sexual or political revolts, this can create a crisis in the system. It can cause disorder and contamination, and it represents a special threat if the system is already in a state of crisis (Goddard 1987). Thus visible women become dangerous women.

Yet, when both the silent and the dangerous women are hit in their souls by the sexual control mechanisms of society, they very often blame themselves. Why does the victim blame herself? This problem of complicity must involve deep-seated feelings and values that are part of the unconscious of both the individual and the societal structure. I have analyzed the question from an anthropological perspective inspired by a book entitled *Purity and Danger* (1966), by the British anthropologist Mary Douglas.

I have taken as my point of departure the almost universal ambivalence towards women's blood, be it menstrual blood or the blood from the first intercourse. This blood is an exterior sign of the movement from one social condition to another. The first menstruation marks the transformation from girl to virgin, while the blood after the first intercourse marks the shift from virgin to woman. Both are symbols of status, of social boundaries that are crossed, and also of social boundaries that have been violated. Through the societal attitude to her blood, the girl learns about the shameful dangers that people find threatening.

One of the most serious dangers that threaten people is that of contamination or *impurity*. If, for example, there is no blood on the wedding night, this could be a sign that the girl has been

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involved in forbidden sexual acts. If there is no menstrual blood, the implication could be the same. Regardless of *how* the forbidden has happened, or whether it happened with or without her consent, she is nevertheless an accomplice. She could have been more careful. She learns that it is her responsibility, that *she* has to be careful that she does not bring shame on herself or on her family.

Although it was never her intention to understand trauma or work in the field of therapy, I think Douglas provides some insight into the problem of complicity that is also relevant for other trauma victims, who have been involved in acts which the official ideology of society does not condone: "The ideal order of society is guarded by the dangers which threaten transgressors," writes Douglas. One of the most serious dangers threatening those who are not careful is pollution or contamination. Dirt is defined by Douglas as something which is in the

wrong place. The unclean and the dirty must not be present if a societal model is to be maintained. If you disturb the order of things, you expose yourself to dangerous pollution. But you do not only pollute yourself. You are also dangerous to others. One's intentions are irrelevant. The danger of pollution is a power that threatens *careless* human beings. As Douglas says:

> A polluting person is always in the wrong. He or she has developed some wrong condition or simply crossed some line which should not have been crossed and this displacement unleashed danger for someone else." (113)

I think Douglas expresses a fundamental aspect of victimization. The victim has been involved in something which is not regarded as nice or good, neither by herself or himself, nor by society. The feeling of being wrong or dirty, then, does not have anything to do with responsibility.

We could also analyze these dynamics from the perspective of *shame*. Douglas' focus is on societal mechanisms of control. But if we look at the Hungarian philosopher Agnes Heller's concept of "the power of shame" (1985), we see the same mechanisms from an individual viewpoint. According to Heller, shame is the very feeling that makes us adjust to our cultural environment. Shame is universally the first and most basic moral feeling, and it is internalized by the child at a very early age. When the child learns what he or she should be ashamed of, the child simultaneously learns of the legitimization of a system of domination. The external power is internalized in the feeling of shame. This is society's silent voice, or "the eyes of the others" that we hear and sense inside of us. And the prostitute, Heller says, is the symbol of shame. She is the embodiment of lost honour.

The problem of complicity and the feelings of shame are prominent features of the trauma of torture victims, especially if they have been sexually abused. But these features are also found in the trauma of other victims. As noted by Judith Herman in her re-

cent book, *Trauma and Recovery* (1992), the psychological impact of victimization may have many common features, whether victimization occurs within the public sphere of politics or within the supposedly private—but equally political—sphere of sexual and domestic relations.

My own research process through the woman's house of exile has not ended yet. Upon the publication of my book, *The Blue Room* (1994), a heated discussion ensued that involved some very personal attacks against me. One sarcastic reviewer did not trust the testimonies. Another reviewer was extremely angry and wrote that the choice of such a "perverse" topic reflected the author's own personal problems. Apparently, some readers have directed their mistrust or anger at the messenger. When we work in the field of trauma and see the effects of extreme human evil, therapists and researchers experience some of the same feelings that our clients or research-objects experience. This I see as an invaluable tool for a deeper understanding of the psychological mechanisms of trauma.■

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Maid in the Market

Women's Paid Domestic Labour

Edited by Wenona Giles and Sedf Arat-Koç

ISBN 1-896686-35-0
1994; $14.95; 138 pp.

This book demonstrates that even when done in "public" and for pay, the work of housekeeping and caregiving in industrial society is problematic. By focusing on three different kinds of paid "domestic work": commodified housework, service work performed in commercial settings and service work that is marketed and sold in familistic terms, the book explores how the work of reproduction is subordinated and devalued in the marketplace when it is done for a wage.

In addition to the issues of class and the labour process, the book also focuses on the gender and racial/ethnic dimensions of the industrial solution to the reproduction of labour power. Paid housework is usually performed by women, especially immigrant, refugee, and working class women. The book argues for a new feminist debate on domestic work that will address the relationship between gender, class and race/ethnic relations to arrive at an evaluation of alternatives for privatized housework.

Published by:

Fernwood Books
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Halifax NS B3K 5S3
Tel.: (902) 422-3302
Fax: (902) 422-3179

Women—State—Citizenship: Selected Bibliography on the Politics of the Production of Knowledge

Helene Moussa

This bibliography reflects my readings during the year that I held the Kathleen Ptolemy Research Fellowship (1993–94) at CRS. The purpose of my research project was to examine the effectiveness of the implementation of the Immigration and Refugee Board (IRB) Guidelines issued by the IRB Chairperson on *Guidelines on Women Refugee Claimants Fearing Gender-Related Persecution* (March 9, 1993). A "simple" approach would have been to analyze positive and negative decisions and come to some conclusion(s). While such a study would have produced interesting and useful information, I decided to remove myself from policy discourse so as to raise "different" questions as a social scientist and as a feminist.

The priorities in the selection of the literature were: (1) to explore feminist literature (production of knowledge) on citizenship, the state, and the law, and (2) to examine literature by women (and men) from the South on their realities. A strong emphasis in the selection of readings was postmodern literature. The reason for this "bias" is that postmodernists challenge commonly held meanings, among other questions that can unravel the politics of the production of knowledge in dominant discourse(s).

I also decided to contextualize my readings by focusing on the literature on gender, women, and Islam. This decision was motivated by a concern about the intensive and highly negative media reporting on Islamic states and Muslims in Canada and abroad, exemplified by a critical article in the *Toronto Star* (1992) titled "demonizing the Arab." My questions were, how the ideological perspective of IRB members and lawyers influences their decisions when they listen to refugee women's stories, and how these deci-

sions get generalized because of "culture." A forthcoming publication of Professor Sherene Razack (OISE) on this topic will certainly reveal how dominant (colonizer) ideology filters the perspective of legal discourse, and the implications of these decisions for the "colonized."

This bibliography is by no means exhaustive. If I have missed some important literature it may be because I read them prior to fall of 1993 (only five of these resources are included); I may not have "found" them; or because I was highly stimulated by my readings and ready to integrate them in my continued research project. One of my concerns continues to be the highly legal discourse of the IRB literature and practice, as well as what I, as a sociologist, would name the "cultural environment" of the IRB. The question here focused on the constraints of this "culture," while recognizing that "justice" is the intended goal. Posed another way, the question is how the humanitarian principles of the Convention fit in the implementation of the IRB *Gender-Related Persecution Guidelines*. The headings of this bibliography reflect themes I found critical in this exploration. Had I remained in Canada I would have followed up this review of the literature with an "organizational culture" study of the IRB as an institution.

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INTERNATIONAL WORKSHOP

WOMEN'S RIGHTS ARE HUMAN RIGHTS: FOCUS ON YOUTH

The Centre for Refugee Studies and the Centre for Feminist Research at York University will host a conference to raise awareness of issues surrounding human rights, labour, and exile with respect to youth and particularly young women and girls.

Date: Monday, March 6 — Wednesday, March 8, 1995

Place: York University • Toronto • Canada

Workshop areas include:

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- The risk of being conceived female • The silencing of the girl child

For registration and further information on the conference, please contact:

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