

Women's Right to Asylum: Protecting the Rights of Female Asylum Seekers in Europe?

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Abstract Criticisms have been made against international laws and conventions on asylum and refugees, arguing that these have been based on a male model of definition, which have ignored women's persecutions. This article will argue that recent developments in European asylum policy have the potential to deepen this discrimination and to further reduce the rights of female asylum seekers. Although there have been some positive developments in jurisprudence that have recognised that gender-specific persecution may be the basis for granting asylum, these advances remain relatively sporadic and are undermined by the operation of random and discretionary exercises of power by bureaucrats and decision makers in many cases. Further, although new developments in asylum policy are in theory "gender neutral," differences in the material circumstances of men and women who arrive to seek asylum may mean in effect that the implications of these policies are deeply gendered.

Keywords Asylum · Refugees · Gender · Europe

For European states, the issues of refugees and asylum seekers have become increasingly contentious in recent years. Widespread perceptions that Europe is being 'flooded' with asylum seekers, many of whom are not in fact genuine asylum seekers but economic migrants (or 'bogus' asylum seekers as sections of the British political establishment and media have labelled them), and beliefs concerning the supposed costs associated with the reception of asylum seekers, have mobilised support for more and more restrictive policies on the part of EU states (Boswell 2000; Valluy 2005). Deportation, detention and dispersal of asylum seekers have become 'normalised' policy instruments in the attempts to control asylum (Bloch and Schuster 2005), and some states are now suggesting further measures such as externalisation of asylum (Boswell 2003). At the same time, welfare rights of asylum

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seekers within EU states have been restricted, leading to a greater stratification of rights between migrants and national citizens and between different categories of migrants (Morris 2002). In some cases, the restriction on rights has led to what some have described as the ‘destitution’ of asylum seekers. These developments have called into question the ability or willingness of European states to meet their obligations under the current international conventions on refugees and asylum seekers (principally the Geneva Convention of 1951¹) and have raised important challenges for the protection of the human rights of asylum seekers.

In this article, I will seek to examine these developments in European asylum policy from the perspective of the rights of women asylum seekers. It has been argued that the very definition of asylum rights and the interpretations of the Geneva Convention, which have been adopted in practice, have discriminated against women by taking a male model of definition of persecution. I will argue that recent developments in European asylum policy have the potential to deepen this discrimination and to further reduce the rights of female asylum seekers. Although there have been some positive developments in jurisprudence that have recognised that gender-specific persecution may be the basis for granting asylum, these advances remain relatively sporadic and are undermined by the operation of random and discretionary exercises of power by bureaucrats and decision makers in many cases. Further, although new developments in asylum policy are in theory ‘gender neutral,’ differences in the material circumstances of men and women who arrive to seek asylum may mean in effect that the implications of these policies are deeply gendered.

Women Refugees and Asylum Seekers: Differing Forms of Persecution

One of the major difficulties in assessing the situation of women refugees and asylum seekers in Europe, as elsewhere in the world, is the lack of accurate gender-disaggregated statistics. This lack of accurate statistics seems to reflect an inherent gender blindness in research on these issues – the figure of the refugee is often seen as male, and the particular types of persecution that force women to flee are ignored. The United Nations (UN) High Commissioner for Refugees (UNHCR) estimates that in most regions, women constitute between 45% and 55% of the refugee population (UNHCR 2006), although other estimates are much higher (Bhahba and Shutter 1994; Forbes Martin 2004).² Despite, however, the large number of women amongst the global refugee population, women make up only a minority of asylum claimants in Europe. Where gender-disaggregated statistics are available, they indicate that women make up only about a third of the total of asylum claimants within the EU (Bloch et al. 2000; Freedman 2003; Crawley and Lester 2004), indicating that even in the processes necessary to reach Europe and make a claim for asylum, women

¹ The 1951 Convention Relating to the Status of Refugees (the Geneva Convention), as well as its protocol of 1967, is the international convention that underpins the currently existing refugee and asylum regimes in most countries of the world.

² These estimates have, however, been criticised for being based on the figures for women and children. The amalgamation of these two categories has been used to highlight the problem of the neglect of women refugees, but this use of ‘women and children’ as a category can act to reinforce essentialised representations of women as helpless victims (Enloe 2000; Carpenter 2005).

face different obstacles and choices from men. Women who have been the victims of persecution may face particular social and economic constraints, which make it more difficult in many circumstances to leave their countries and travel to Europe to claim asylum. In particular, it may be more difficult for a woman to leave her country of origin and travel as she may often have primary responsibility for the care of children. In addition, economic inequalities mean that women often may not have the necessary financial resources to undertake such a journey, including the resources necessary to pay the smugglers who are more and more often an unavoidable part of the journey to Europe. It can be argued that all these obstacles mean that women leave their homes and families only when circumstances become so hostile that they cannot possibly remain (Spijkerboer 2000).

The fact that fewer women than men claim asylum in Europe should not lead to the conclusion that women are less persecuted than men. However, the forms that this persecution takes and its causes may lead to it not always being recognised as such. It has been argued that the Geneva Convention, like other international human rights conventions, was written from a male perspective and that the situations and interests of women were ignored. Spijkerboer noted that during the negotiations that led to the drafting of the Convention, the relevance of gender was discussed only once when the Yugoslav delegate proposed that the words 'or sex' should be included in article 3, which stipulates that the Convention shall be applied 'without discrimination as to race, religion or country of origin.' The suggestion was quickly rejected as it was considered that the equality of the sexes was a matter for national legislation and the then UN High Commissioner for Refugees, Van Heuven Goedhart, remarked that he doubted strongly 'whether there would be any cases of persecution on account of sex' (Spijkerboer 2000: 1). These views may be seen as typical of the time at which the Convention was written, when the questions of sex equality and women's rights were far from the centre stage of politics and particularly of international politics. However, the High Commissioner's failure to envisage persecution on the grounds of sex seems to have endured in many interpretations of the Convention, and the male model of rights on which it was based has in many cases not been challenged in its implementation. As Bunch maintained, 'the dominant definition of human rights and the mechanisms to enforce them in the world today are ones that pertain primarily to the types of violations that the men who first articulated the concept most feared' (Bunch 1995: 13). Violations and persecutions pertinent primarily to women are often left out of the spectrum of those that are considered valid as reasons for granting refugee status.

Legal experts have come up with varying attempts to define what persecution means in context of the Geneva Convention, and many of these definitions revolve around the notion of basic or universal human rights. The problem with these definitions is that, as argued above, feminist critiques of human rights law have demonstrated the ways in which human rights have historically been defined from a male perspective, which ignores the experiences of women. Moreover, as Charlesworth and others have pointed out, the human rights laws and conventions upon which definition of persecution may be based have been elaborated in terms of the violation of existing rights and offer only limited redress in cases where there is pervasive and structural denial of rights, such as those cases where rights are denied because of pervasive and structural gender inequalities (Charlesworth et al. 1991;

Crawley 2001). Thus, many of the definitions of persecution that have emerged in the implementation of the Convention by different states have tended to reinforce the gendered inequalities already existing in various countries by failing to acknowledge breaches of women's rights and resulting persecutions.

Some have argued that gender should be added as a sixth ground of persecution in addition to the five already defined in Article 1(A)2. They point out that not naming gender-related persecution as such trivialises this type of persecution and demonstrates that it is taken less seriously than other forms of persecution based on race, religion or political opinion. If gender is not enumerated as a Convention ground, then this adds to the process of 'invisibilisation' of victims of gender-related persecution, even though their claims might eventually be admitted under another Convention ground (Stevens 1993). Others, however, have argued that in fact gender-related claims can be made under the existing Convention grounds if states are willing to interpret these in a gender-sensitive manner. They have argued that adding a separate ground of gender might cause confusion between persecution because of gender and persecution that takes a gendered form³ and that this confusion might result in all persecution done to women being subsumed into one category. This would in turn lead to perceptions that women's persecution was always fundamentally different (and perhaps less serious) than that of men. The UNHCR has concluded that the refugee definition contained in the Convention if 'properly interpreted' should cover claims concerning gender-related persecution and thus that there is no need to modify the Convention to add a further persecution ground (UNHCR 2002). However, this conclusion seems rather premature when the actual interpretation of the Convention by nation states is considered. The UNHCR for its part has little or no control over the way in which the Convention is implemented at the national level in different countries and although it may offer advice and legal interpretive guidance (Goodwin-Gill 1996) and may in some instances participate in procedures for the determination of refugee status, this is not sufficient to ensure a standard or uniform interpretation. In fact, one of the areas in which different national interpretations of the Convention have differed widely is that concerned with gender-related persecution. Although some states have made progress in recognising gender-related persecution in asylum claims, this recognition still remains relatively patchy and random.

The Public–Private Division and the Denial of Persecution

One of the major effects of the transposition of liberal definitions of human rights into the interpretation of the Geneva Convention has been to reinforce the division between public and private found in much of the liberal rights discourse. Whilst demands from women's movements that the scope of rights be extended to include issues like violence against women has led to a re-framing and re-development of the criteria for advancing women's rights across a number of spheres (Charlesworth and Chinkin 2000), this issue of the demarcation of public from private still remains.

³ For a more detailed discussion of this distinction, see Macklin 1995.

The underlying assumption of the public–private division undermines refugee law and practice by creating situations within much of what women do and what is done to them may be seen as irrelevant to refugee and asylum law. The threat of forced marriage or of female genital mutilation, for example, may be considered as threats of a ‘private’ nature as they take place within the sphere of the family or home, and therefore, it may be considered that they do not come under the scope of the Geneva Convention. Similarly, forms of persecution related to women’s ‘private’ behaviour—for example, their refusal to adhere to certain dress codes—or to violence that takes place within the ‘private’ sphere of the family—violence committed by a husband, father or another family member—may not be recognised as grounds for the granting of refugee status.

This public–private division might be argued to be particularly acute in cases of domestic violence, which is a type of violence often dismissed as ‘irrelevant’ to asylum claims, even when the women who experience this type of violence can expect no help or protection from the police or state authorities in their country of origin. Because this type of violence takes place within the family and is indeed perpetrated by family members, it is somehow perceived as less severe than other types of violence, which are experienced in the public sphere (Copelon 1994). A woman who is severely beaten by her husband or father can thus expect less recognition from immigration officials and judges than one who is beaten by the police in her country of origin.

Similarly, sexual violence and rape may not be considered on the same level as other types of violence as they are deemed ‘personal’ or ‘private,’ a result of ‘private’ feelings of lust or desire and not a form of persecution or torture. Rape and sexual violence are often effectively normalised and considered as part of the universal relations between men and women. This normalisation or relegation of rape to a ‘private’ affair between individuals means that it might not be taken seriously when women make claims for asylum. Although many studies have pointed to the extensive use of sexual violence against women, particularly in conflict situations (Pearce 2003), this type of violence is still not always recognised as a form of ‘persecution’ that can justify the granting of refugee status. The true scale of this sexual violence is probably unknown, since, as the UNHCR concludes, numerous incidents are never reported, often because of the shame of the women involved (UNHCR 1995); however, it is estimated that more than 50% of refugee women have been raped (Pearce 2003). Sexual violence may be an explicit tool of political oppression or may be part of generalised violence in situations of civil war. Its effects on women are both physical and psychological harm. Women who have experienced such violence may also be rejected by their communities and their families as they are perceived to have dishonoured them by engaging in sexual intercourse even if this was forced. However, despite the prevalence of rape and sexual violence and the clear harmful effects on women, often it is not recognised as a form of ‘serious harm’ under the terms of the Geneva Convention (Macklin 1995: 226)

In Germany, for example, women have been refused asylum on the grounds of rape during times of ethnic conflict because ‘widespread rape by hostile militia has been dismissed as the common fate of women caught in a war zone and not recognised as persecution’ (Ankenbrand 2002: 48). A report by the Black Women’s Rape Action Project and Women Against Rape in the UK describes a similar

phenomenon of the rejection of asylum claims by women who have been raped, as the political nature of this type of violence is not acknowledged and rape is not recognised as persecution. The report provides an example of a Ugandan woman who was raped by soldiers during an interrogation about her alleged support for rebels in the country. The Asylum Appeal Adjudicator rejected her claim, dismissing the rape as an act of ‘sexual gratification’ and not persecution under the terms of the Geneva Convention. This judgement was upheld in the High Court where the judges argued that the woman was not a victim of persecution but merely of ‘dreadful lust’ (BWRAP and WAR 2006).

Are Women’s Activities ‘Political’?

The underlying presence of this public–private division also has an impact on the way that what is ‘political’ is defined, and this in turn means that women’s activities may not be considered as ‘political’ in the same way as men’s and that their asylum claims will be denied for this reason. Persecution on grounds of political opinion is one of the least disputed grounds included in the Geneva Convention (Crawley 2001), and in fact, asylum is often referred to in common usage as ‘political asylum.’ However, although engaging in political activity for which one is persecuted seems clearly to enter within the terms of the Convention as a justification for granting refugee status, a gendered interpretation of what counts as ‘political activity’ invalidates many claims by women. The gendered division of labour and gendered roles adopted within most cultures and most societies mean that women’s activities within any given society will often be different from those of men. They may indeed participate more ‘indirectly’ in political activity, becoming involved in ‘supporting’ roles such as hiding people, passing messages or providing food or medical care. However, because they have been largely absent from political elites, they are often considered as non-political. When considering asylum claims, often the different types of political activity undertaken by women are overlooked or dismissed, so that their claims for asylum on the grounds of persecution based on political opinion are not accepted. A further argument for taking women’s political activity seriously and for considering women’s claims for refugee status on the basis of this political activity relates to women who refuse to comply with discriminatory laws or norms in their countries of origins. Rather than viewing this refusal as a private matter, which has no political relevance, it might be considered that women who choose to disobey rules and laws in this way are committing a highly political act. Women who refuse, for example, to comply with laws that impose particular modes of dress, such as the veil or chador, might be seen to be undertaking a highly political act of opposition. A similar analysis could be made of Chinese women’s opposition to the one-child policy imposed by their government, which exposes those who contravene the regulations to the risk of forced abortions and sterilisations. Again, however, the issues of pregnancy and childbirth involved in this type of opposition are often not constructed as ‘political’ and so fall outside of the interpretation of who is a refugee. This type of analysis of women’s activities has often been missing, however, in the rather limited interpretations of the Geneva Convention that have been prevalent in European states.

Cultural Difference and Non-recognition of Persecution

A further barrier to the recognition of gender-related persecution within current definitions and interpretations of the Geneva Convention is the way in which persecutory practices that may be common in “third world” countries are assigned to ‘cultural difference’ and are thus viewed as part of the order of things. This normalisation of persecutions through their ascription to cultural differences, which should not be challenged by European states, feeds into the debates over the possibility of defining universal women’s rights or whether these rights should be culturally sensitive. Liberal rights discourse has been criticised for its ‘false universalism’ and its inability to accommodate cultural diversity. In international arenas, some of the resistance to universal standards for women’s rights has in fact been led by conservative states and religious non-government organisations (NGOs; Sen and Correa 1999; Molyneux and Razavi 2002), but this universal rights discourse has also been criticised by some feminists who have argued that it does not take account of differences amongst women and reproduces an ethnocentric and Western model of rights that supports the idea of Western cultural superiority (Mohanty 1991). The difficulty is thus to determine how far any defence of ‘cultural difference’ is actually a defence of practices, which amount to an attack on women’s rights and to persecution of women. As Rao pointed out, the arguments against universal rights based on the need to maintain cultural difference actually serve a variety of interests and may in fact be employed by regimes that are unfavourable to women’s emancipation (Rao 1995). Claims to defend ‘traditional’ cultures often involve control of areas such as family life, which lead to the subjugation of women within the domestic sphere, and as Molyneux and Razavi argued:

The fact that the roles and symbolism associated with femininity together with patriarchal authority and masculine privilege are often made into cultural signifiers, places women’s individual rights in conflict with those seeking to impose ‘traditional’, ‘authentic’, or ‘national’ customs on their people. (Molyneux and Razavi 2002: 15)

These conflicts between women’s individual rights and those who seek to impose ‘traditional’ or ‘cultural’ practices upon them can easily lead to persecutions of women, but claims for asylum based on these persecutions may not be recognised as legitimate if the imperative of recognising cultural difference prevails. For example, in a recent decision, the British Court of Appeal rejected an asylum claim from a Sierra Leonean woman who feared forced genital mutilation if she was returned to her country. One of the judges argued that the practice of female genital mutilation was clearly accepted by the majority of the population of Sierra Leone and was not in those circumstances discriminatory (Refugee Women’s Resource Project 2005a). This decision was later overturned by the House of Lords who ruled that the claimant could be considered as part of a ‘particular social group’ of women from Sierra Leone who were at risk of female genital mutilation; however, despite the positive outcome for this woman, the earlier ruling by the appeal court judges shows a worrying trend of cultural relativism, which is present among many of those involved in processing and judging asylum claims. This cultural relativism goes hand in hand with the fears mentioned above of a ‘flood’ of female asylum seekers if

European states were to admit that what these women were experiencing was indeed persecution and not merely a local custom that was widely practiced and therefore acceptable.

Should Women be Considered as a ‘Particular Social Group’

Much of the legal debate over the best way to ensure that gender-specific forms of persecution are brought within the remit of the terms of the Geneva Convention has revolved around the notion of a ‘particular social group.’ One of the grounds for persecution that is included within the Convention as a basis for granting refugee status is that of membership of a particular social group. However, although many cases of gender-related persecution might be thought to enter into this category, with women in a particular country being considered as members of a particular social group when gender-based persecution is widespread within this country, there has been a reluctance to admit that women can be recognised as a particular social group in this way.

The recognition of women as a particular social group is a solution favoured by the European Parliament, which adopted a resolution in 1984 calling upon states to consider women who had been the victims of persecution because of their sex as a particular social group, under the terms of the Geneva Convention. The UNHCR also supports this line of action, its *Guidelines on the Protection of Refugee Women* (UNHCR 1991), also calling for women who face persecution for violating social norms to be considered for refugee status as members of a particular social group. However, although there have been cases where women have been offered refugee status under this ground of the Convention, the limits to the particular social group constituted are always very precise, to avoid setting a precedent of a wide category, which could be open to many women asylum seekers. It seems unlikely that most European states will move towards a more general recognition of gender as a characteristic of a particular social group because of the perception that this recognition would lead to a ‘flood’ of asylum claims by women. In an interview, for example, the head of the French Commission de Recours des Réfugiés (Refugee Appeal Commission) expressed the opinion that the recognition of the principle that women formed a particular social group would lead to the risk of receiving asylum claims from ‘half of humanity.’⁴

Further, the issue of whether or not it would be beneficial for women asylum seekers to be classified as a particular social group in this general way, with the notion of particular social group being based on the idea of a shared gender, is a matter for debate, with some arguing that this would be inappropriately comprehensive (Crawley 2001; Kofman et al. 2000). As many feminists have previously argued, ‘women’ do not constitute a cohesive social group, and within any country, there will be numerous differences between the status and situation of various women. With reference to asylum claims therefore, ‘the very assumption that women have common experiences which can be explained by reference to their

⁴ Interview with author, September 2005.

gender alone can itself undermine the argument' (Crawley 2001: 73). Attempting to define women as a particular social group may also fall into the trap of essentialising gender differences and portraying refugee women as victims of 'barbaric' third world cultures (Oswin 2001). The problems with these types of representations, which portray women from third world countries as 'victims,' is that it fixes an opposition between 'them' and 'us,' between 'Western women' and 'other women,' which might obscure the real structures of gender inequalities in different societies and the reasons for the persecutions that women suffer as a result.

Practical Barriers to Making Asylum Claims

The various legal and judicial barriers to recognition of women's claims regarding gender-related persecution have been exacerbated by the way in which claims are heard in many European countries. In the asylum procedures in some countries, married couples are encouraged or forced to make a joint claim for asylum. This means that the man will in almost all cases be the primary claimant and the woman will be considered as his dependent. Being reduced to the status of dependent, rather than making a claim in her own right, may have serious consequences for a woman, who will be reliant on her male partner for any legal status that she has and may thus be forced to stay with a violent or abusive partner to not lose her right to stay in a host country (Valji 2001). Moreover, the joint hearing of couples' claims has the effect of reinforcing the idea that it is the man who has a legitimate justification for claiming asylum – it is he who has experienced real persecution – and on the contrary of invalidating any independent claim the woman might have had due to her own persecutions. This understanding that it is the male partner whose claim to have been persecuted is that which counts means that any evidence the wife might have put forward as to her own experiences of persecution could be dismissed. Asylum claims that may have succeeded if the evidence of persecution of both partners was considered may thus fail as the woman's testimony will not be heard.

More practical issues arise in that joint interviews for couples may lead to a woman being unable or unwilling to express what has happened to her in her country of origin, particularly if this story of persecution involves any kind of sexual abuse or rape, which she may not want to mention in front of her husband.

For women making an asylum claim on the basis of gender-related persecution, it may also be very difficult to explain their histories to male immigration officials. Many countries have in theory admitted that women in this case should have the possibility of being interviewed by female immigration officials with female interpreters present if necessary. However, in practice, this recommendation is often not followed,⁵ either because there are no female immigration officers available to carry out the interview or because women are not informed of their right to ask for a female official or are too scared to do so (Liedtke 2002; Clarence 2003). In Spain,

⁵ Crawley and Lester (2004) reported that requests to be interviewed by someone of the same sex were usually granted in less than half of the countries they studied, whilst in only a quarter of these countries was a same-sex interpreter regularly provided.

for example, female asylum seekers have the right to file independent applications and to be interviewed by female staff, but they are not always informed of this right. Further 'legal representatives dealing with cases involving sexual violence, rape or forced sterilisation are not sufficiently trained for interviewing such cases,' which creates a disadvantage based on gender and 'accentuates the differentiation among asylum seekers' (Jaubany-Baucells 2002: 422).

The fact of having her asylum claim examined by a male official can thus exacerbate the tendencies noted in previous research of cultural or psychological misunderstandings, which occur frequently during the examination of asylum claims and in asylum adjudication hearings. Women who have experienced particularly traumatic incidences of violence may manifest their trauma in a variety of ways, some of which may be misinterpreted by immigration officials or judges. These cultural and psychological misunderstandings are also gendered, a point highlighted by research showing the differences in the ways that men and women react to trauma and tell their stories. Daniel, for example, pointed to the fact that men are more likely to present coherent narratives of violence while women may find it much more difficult to speak about violence and in particular sexual violence (Daniel 1996). This factor is often overlooked by immigration officials, however, who may take silence or a lack of emotion as a sign that the asylum seeker is not credible (Spijkerboer 2000).

The Burden of Proof and Credibility

Even when women are heard independently from their husbands and have the opportunity to explain their case to a female immigration official, they come up against a barrier of proving their case in front of immigration officials and judges who are more often than not skeptical about their claims. The climate of disbelief surrounding asylum seekers means that the level of 'proof' needed to substantiate their claim has risen continually. Noiriël referred to the 'absence of proof' as the 'leitmotif which justifies all the rejections' of asylum seekers (Noiriël 1991: 237), and as rejection rates continue to rise, so too does the level of proof required to avoid rejection. Often, the form of proof required is that of physical evidence of violence or torture in the form of a medical certificate certifying the scars of such violence. Again, this demand for proof may be particularly difficult for women who have suffered sexual violence or rape as these types of violence may be difficult to prove, and women may be reluctant to talk about them or to submit to medical examinations, which will heighten their feelings of shame. Women and NGOs interviewed for this research commonly pointed to a lack of proof as the reason for which women's asylum claims had been rejected.

Ironically, a move towards greater recognition of some forms of gender-related persecution has also resulted in some instances in greater barriers to proving these cases. This results from assumptions among some immigration officials that once they have created a judicial precedent, many other asylum seekers will be tempted to 'jump on the bandwagon.' Thus, French NGOs report that in cases where a woman is claiming asylum on the grounds of feared female genital mutilation, the level of proof required in terms of medical certificates and expert witness statements has

become very stringent and that any claimant who does not have all of these certificates will be sure to have her claim rejected.⁶

The rising number of women who claim asylum on the grounds of rape or sexual violence has also led to a problem of credibility as some decision makers seem to assume that 'all women say they've been raped.'⁷ As Schottes and Schuckar pointed out, asylum seekers coming from civil war regions quite often tell very similar stories about sexual abuse and rape. They are then accused of making up their story in the hope of being granted asylum (Schottes and Schuckar, cited in Binder and Tasic 2005: 616). Women's accounts may also be less likely to be believed if they fail to give details of rape or sexual violence when they first make their claim, although there are often compelling psychological or social reasons not to do so (BWRAP and WAR 2006).

Gender Guidelines

To respond to some of the above criticisms of the operation of international laws and policies regarding female asylum seekers and refugees, a few countries have introduced so-called gender guidelines, which aim to ensure that issues related to gender are taken into account in the determination of asylum claims. The adoption of such guidelines is a solution favoured by the UNHCR who have produced a range of guidelines over the years to try and encourage states to incorporate a gender-sensitive approach into their processes of determining asylum claims. However, evidence from European states suggests firstly that there is little uniform acceptance for the need to incorporate such guidelines into their national policies or legislation and, secondly, that even where guidelines have been adopted, their implementation rests patchy at best.

In fact, the only countries amongst the EU members to have adopted any kind of gender directives or guidelines into their asylum procedures are Sweden and the UK. In March 2004, the UK Home Office introduced gender guidance to its asylum policy instructions (APIs) in a document entitled *Gender Issues in the Asylum Claim*.⁸ This guidance sets out a number of instructions and considerations with regards to gender issues that the Home Office caseworkers should take into account, 'when looking at the persecution experienced and whether there has been a failure of state protection.' It also covers procedural issues such as the need for female interviewers and interpreters for female asylum claimants. Despite the promise of the Home Office APIs, the early research on the application of the guidance shows that it has so far had little impact on the way that asylum cases are processed or judged (Wallace and Holliday 2005). A study by the Refugee Women's Resources Project found that despite a few examples of good practice, the overwhelming impression was of a lack of gender sensitivity and awareness of gender issues and of the Gender

⁶ Interviews 2005 and 2006.

⁷ Interview March 2006.

⁸ www.ind.homeoffice.gov.uk/ind/en/home/law_policy/policy_instructions/gender_issues_in_the.html

Guidelines not being followed by those making decisions on asylum applications (Refugee Women's Resources Project 2006). Moreover, recently, the UK's Asylum and Immigration Tribunal removed the copy of the gender guidelines from its website. The Swedish guidelines were introduced in 2004, and again there is little evidence of their effectiveness in promoting gender equality in the asylum decision process (Bexelius, *Swedish law and practice and gender persecution: summary conclusions and comments*, unpublished document, 2006). Interviews with Swedish NGOs and asylum officials suggest that the consideration of gender issues in asylum cases remains rather random and that women's chances of success will vary depending on the lawyer and asylum officer to whom they are assigned.⁹

Although other European countries have not adopted official gender guidelines as in Sweden and the UK, some countries have taken different measures to try and ensure that women who have suffered from gender-related persecution receive fair treatment under asylum laws and processes. The Netherlands and Germany both have advice on interviewing female asylum seekers within their asylum guidelines, and in Germany, a handbook has been produced on the definition of gender-related persecution, whilst in The Netherlands, a gender-inclusive approach is incorporated into immigration officers' training (Refugee Women's Resources Project 2005a, b). Germany has also introduced a procedural framework for nominating and training special adjudicators to deal with victims of gender-related persecution (Crawley and Lester 2004). In Belgium, the Commissariat Général aux Réfugiés et aux Apatrides (CGRA) has recently appointed an officer to coordinate actions with regards to gender-related persecution. Recent reforms introduced to facilitate women's access to the asylum process include a guarantee that in any cases where a claim contains reference to persecution linked to sexual violence or rape, the asylum interview will be carried out by a woman official. In addition, women will always be heard separately from their husbands or any other male members of their family, and crèche facilities will be provided to ensure that women can be heard without their young children being present. Further, an internal directive has been circulated within the CGRA suggesting that officers examining asylum claims should adopt the UNCHR's guidance on the definition of a particular social group with respect to gender-related asylum claims.¹⁰

The difficulties with these different measures, as with the implementation of gender guidelines described above, is that the measures introduced are not always (and in some cases rarely) applied in practice and that often immigration officials and judges and others involved in the asylum process are not fully aware of the existence of specific measures or of their relevance to asylum claims. Another reason for caution when talking about the positive effects of these measures on gender-related asylum claims is that often they are taken at the discretion of one or more individuals and will rely on the continuing presence of those individuals to remain in practice. This is clearly the case with the reforms introduced in Belgium, which were put into place on the initiative of the current head of the Francophone section of the CGRA, an individual who one of the CGRA employees described as 'much more

⁹ Interviews with author, January and February 2007.

¹⁰ Interview with author, December 2006.

positive than previous directors, and really interested in helping women (.)'¹¹ The same individual, however, pointed to discrepancies between judgements emanating from the Francophone and the Flemish-speaking sections of CGRA, thus highlighting the very haphazard nature of decision making.¹² Measures vary across European states, with some, such as France, having taken no action regarding this question. The non-appearance of this issue on the agenda in France can be explained by a latent anti-feminism within the NGO sector as well as a continuing insistence on universalism, which prevents a discussion of separate categories of refugees. Thus, NGOs and official institutions have been wary of any discussion of the 'category' of female asylum applicants. In addition, the UNHCR representative in Paris points to a reluctance of the French authorities to accept directives they believe to be imposed from 'outside' and thus to adopt guidelines coming from the UNHCR.¹³

There is often still little transparency in the process for granting asylum in European countries, and the idea that any kind of logical or 'scientific' process has been established to distinguish between 'real' and 'false' refugees is highly misleading (Valluy 2004). Decisions often rely on the personal intuitions of an immigration official or a judge. In this sense, whilst some decisions favourable to a more gender-sensitive asylum policy and process may be highlighted, a general trend of structural gender inequality still underlies the asylum process. In a study in Denmark amongst recent asylum applicants from the Middle East for example, it was found that single mothers had the lowest probability of gaining refugee status, irrespective of whether or not they had been subject to human rights violations. The authors conclude that it is socio-economic and cultural factors that are the greatest predictor of the granting or not of refugee status in Denmark (Montgomery and Foldspang 2005). Whilst much of the discussion relating to gender in the asylum process has centred on legal discussions about whether women can be defined as a particular social group and how gender-related persecution should be brought under the terms of the Geneva Convention, much less attention has been paid to the utility of this Convention itself. Perhaps a more wide-ranging analysis, which brings into focus the particular circumstances in which the Convention was elaborated and the very political nature of its implementation in various national contexts, can help us to better understand why it is that women fleeing persecution in their countries of origin have found it so difficult to have this persecution recognised as such in European states. Moreover, a gendered analysis of the way that asylum seekers are constructed through the procedures of asylum determination procedures shows that although in some circumstances, it may now be easier for a woman to be granted refugee status on the basis of gender-related persecution, this is dependent on her ability to conform both to an appropriate image of the 'convention refugee' and to representations of proper modes of 'female' behaviour.

¹¹ Interview with author, November 2006.

¹² It is apparently common knowledge that the French-speaking section of the CGRA is much more likely to make positive judgements in asylum cases than their Flemish-speaking counterparts, leading to very similar cases receiving different judgements from the two different sections.

¹³ Interview with author, December 2006.

European Asylum Policy: Reinforcing External Controls

The progress of European integration and enlargement has meant that EU member states have sought to find common immigration and asylum policies. The difficulties in obtaining unity in this area have been well documented (Geddes 2000); however, in the key areas of asylum and refugee policy, there has been some progress in this respect. The Treaty of Amsterdam of 1997 set out an agenda for harmonisation of asylum policies, and the Tampere European Council called for a common EU policy comprising a Common European Asylum System. The emphasis of efforts towards harmonisation have been focused on standardisation of the ways in which asylum claims are treated and of who exactly should qualify for refugee status, to remove existing disparities between national legislation and policies in member states. In effect, EU states have moved towards a harmonization, which aims to keep as many asylum seekers as possible away from European borders and to reduce the numbers to whom refugee status is granted. It has been claimed that this process has resulted in standards for protection being reduced to a lowest common denominator (UNHCR 1995).

One of the aims of the integrated European asylum policy has been to prevent ‘asylum shopping,’ in other words, attempts to claim asylum in more than one EU country, so that if a claim is refused in one member state, the asylum seeker can make a new claim in another member state. Under the terms of the Schengen agreement, member countries could and should refuse to grant asylum to any asylum seeker having passed through a safe third country, whilst the Dublin Convention of 1990 signalled that an asylum claim could be made in only one country of the EU – the country that the asylum seeker had arrived in, unless they had relatives in another EU country – and that once a decision was made on this claim, that decision should stand for all of the EU countries. The aim of the Dublin Convention was to avoid one person making multiple asylum claims in different countries and asylum seekers being sent or trying to move from one country to another to find one which would grant them refugee status. Although these restrictions apply to both male and female asylum seekers, they may have a greater impact on women. As discussed above, there are differences between EU states in the extent to which any gender guidelines have been adopted with regards to the asylum determination process, and thus it may be beneficial for a woman asylum seeker to have her claim considered in a country that is more receptive to claims based on gender-related forms of persecution. As it is generally hard to have these types of persecutions recognised, then any information that a woman might have about where her claim is most likely to succeed will be welcome and useful to her. Further, the particular social and economic conditions, which place barriers to women even reaching Europe to make an asylum claim, may also mean that they have a greater need of a network of support once they reach Europe, and thus it may be more important for women asylum seekers to get to a particular country where they have some contacts or where they know they will be able to access a community of other women from their own country to claim asylum. The new policies that treat most asylum claims with increasing suspicion fail to take into account the needs of asylum seekers with respect to choosing a country of asylum, and this can be particularly damaging for women. As Koser argued, the perception that most asylum seekers are ‘bogus’ ‘fails

to take account of data showing that consistently across the European Union over the last decade up to fifty per cent of asylum applicants are granted either refugee status or some kind of temporary protection. It also confuses motivations for leaving with motivations for selecting a country of asylum. It is reasonable to expect that someone fleeing persecution will at the same time try to apply for asylum in a country where he or she has an existing social network, understands the language and has a chance to work' (Koser 2001: 88).

One of the major EU directives aimed at harmonisation of asylum policy is the procedures directive,¹⁴ which describes the procedures that should be adopted by member states when deciding asylum claims. This directive has worried human rights organisations in particular concerning the idea of creating a common list of 'safe' countries for all EU member states. An asylum seeker who has come from or transited through one of these safe third countries on his or her way to Europe could be denied access to any hearing of their asylum claim and sent directly back to the 'safe country.' The idea of 'safe' countries is not new, and many states already have a 'white list' of countries that are considered safe. Asylum seekers from these countries may be subjected to a very speedy and limited hearing of their claim before being returned to their country of origin. The presumption is that they have no justification for making an asylum claim and so they have to give very strong evidence of persecution to overcome this presumption. The adoption of these 'white lists' has come under criticism from human rights groups who argue that to generalise in this way about the safety of particular countries overlooks specific instances of persecution that may still occur within these countries. As with many other policies, this attempt to define 'safe' countries has often ignored gender-related persecutions, which may take place in such a country, basing as an assessment of safety on a set of criteria that have no reference to women's rights or the level of protection that women may expect from the state in the case of contravention of these rights. The criteria used to define 'safety' are once again based on an underlying assumption of a public–private division, which ignores violence and persecution carried out in the private sphere. Moreover, criteria for defining safety require only that a country is safe for the majority of its citizens, so that even where there is clear evidence of gender-based persecution of a substantial minority of the population, this can be ignored. France, for example, has added Mali to its list of safe countries, even though it is well documented that female genital mutilation is a widespread practice in Mali and despite the large number of Malian women who arrive in France to claim asylum on the basis of fear of female genital mutilation (Freedman 2007).

The case of the UK's utilisation of a 'white list' is also illustrative in this respect. A list of safe countries was established by the UK in 2003 for use in the processing of asylum claims (and with the specified object of speeding up the treatment of 'manifestly unfounded' claims). The criteria used to judge whether a country should be put on this white list included the political stability of the country, the existence of

¹⁴ Council of the European Union, 'Amended Proposal for a Council Directive on Minimum Standards on Procedures in Member States for Granting and Withdrawing Refugee Status.'

an independent judiciary and democratic institutions. The UK list included the EU states, the 10 (then) EU accession countries and a further seven countries including Albania, Bangladesh, Macedonia and Serbia/Montenegro. The then British Home Secretary David Blunkett argued that asylum seekers from these countries would be deported without appeal on the basis that 'It is frankly absurd that people can routinely claim they are in fear of their lives...These are democratic countries which live under the rule of the law' (quoted in *The Guardian*, 24 October 2002). Critics pointed, however, to the inclusion in this list of many countries where human rights abuses regularly took place against some sections of the populations. One concern was with the treatment of Roma people in Central and Eastern European states and in particular of Romani women. A report published by the Center for Reproductive Rights showed the massive extent of forced sterilisation of Romani women in Slovakia and also highlighted the physical abuse and discrimination these women faced in accessing maternity and reproductive health care (Center for Reproductive Rights 2003). Slovakia has now become a member of the EU and as such is considered a priori a 'safe' country from which asylum claims cannot be made in other EU states. It is highly likely, however, that the types of persecutions and infringements of Romani women's rights documented in this report are continuing.

Bangladesh is another country on the UK's 'white list,' although violence and persecution of women is widespread in the country. The International Commission of Jurists affirmed their concerns about women's rights in Bangladesh and about the government's inability or unwillingness to protect these rights in a 2003 report in which they stated that 'Women still frequently face violent attacks, many die as a result of domestic violence and acid attacks on women continue, sparking widespread national and international outrage. NGOs and women's rights defenders complain of a lack of adequate protection and effective legal remedies for the victims of violence. The failure of the Bangladeshi authorities to take prompt legal action against those accused of perpetrating violence fosters a climate of impunity' (International Commission of Jurists 2003).

All of these measures to try and restrict the number of asylum seekers coming in to Europe and the numbers who are granted full refugee status have led to the development of the market in trafficking and smuggling of human beings. This can be considered as something of a vicious circle, whereby the more restrictive measures the EU states put in place, the greater the demand for the services of smugglers and traffickers becomes (Koser 2001). The effects of smuggling and trafficking on women may be seen as particularly perverse, for women are more at risk of sexual violence and exploitation whilst being smuggled, and the need to use traffickers can leave them open to the possibility of being forced into prostitution when they arrive in Europe. Although all European countries are currently trying to implement measures to crack down on trafficking of women for prostitution, these measures do not extend to granting refugee status to women who have been trafficked; the most that they can hope for is temporary protection in return for helping the police to prosecute the traffickers (Freedman 2003). Thus, the increasing controls on asylum seekers and refugees and attempts to create a unified European policy in this area can be seen to be creating yet more insecurity for women attempting to flee persecution.

Increasing Internal Controls: Threatening the Welfare of Women Refugees

At the same time as European states are attempting to reinforce external controls to stop asylum seekers reaching Europe, many are also enforcing internal controls to try and deter asylum seekers from coming to their countries. These internal controls have taken the forms of detention or dispersal of asylum seekers and restrictions on their social and welfare rights once they reach a European state. Attempts to harmonize the conditions of reception of asylum seekers in European states has led in most cases to a 'levelling down of welfare provision and an attempt to speed up decisions' (Duvell and Jordan 2002). This has led in many cases to a continuing stratification of rights within European states, with asylum seekers being amongst those further excluded from rights (Morris 2002). Again, although these restrictions on rights are not gender specific, they can be seen to have particular negative impacts on the human rights of female asylum seekers.

One of the major problems for female asylum seekers who arrive in Europe with their male partners is that they are usually classified as dependents and thus find themselves dependent on these male partners. In some countries such as Germany and the UK, permission to work is usually granted only to the male members of asylum-seeking households, thus reinforcing the exclusion of female asylum seekers (Morris 2002; Bloch and Schuster 2005). A similar issue arose with the UK's experiment in using vouchers instead of cash payments for asylum seekers. Because men were often the principal asylum applicant in a couple and because the vouchers had the principal applicant's name printed on them, women were effectively barred from using these vouchers (Eagle 2002). Women whose attempts to use the vouchers were publicly refused often felt marginalised and humiliated, and this system also meant that women had little control over the way in which the vouchers were spent. A report by Oxfam and the Refugee Council also highlighted the specific difficulties the voucher system presented for pregnant women and those with young children, who often found themselves with inadequate resources to buy basic essentials such as maternity clothes, nappies or milk formula for babies (Oxfam and the Refugee Council 2002). Increasingly in Europe, welfare payments for asylum seekers have been linked to the demand that these asylum seekers remain within official accommodation centres. The use of this type of accommodation centre may pose problems for female asylum seekers because, for example, of a lack of sensitivity to cultural requirements regarding single-sex accommodation. Refugee Action noted that in the UK, women, including those who are pregnant, are housed in mixed private accommodation with little concern as to social customs, which may require the exclusion of male non-family members. Many women in such circumstances effectively find themselves confined to their bedrooms (Refugee Action 2002). This finding is echoed by evidence from other EU countries (Liedtke 2002) and by the testimonies of female asylum seekers themselves. One woman who is seeking asylum in France explained how she had remained confined to her room in a hostel in Montelimar in the South of France because of fears about her safety in the mixed accommodation centre.¹⁵ Another report about the provision of accommodation for

¹⁵ Interview with author, October 2005.

pregnant asylum seekers in Ireland recounts that: 'It was not uncommon to find women and babies sharing accommodation with unknown men from a family of strangers; where some women had experienced rape, the levels of tension were palpable' (Kennedy and Murphy-Lawless 2003: 46).

Concerns have also been expressed about the specific impacts on women of detention and dispersal. As argued in the introduction, these have now become a 'normalized' part of European asylum policies. However, both could be argued to infringe the human rights of asylum seekers, and both can have particular deleterious effects on the rights of female asylum seekers. Dispersal of asylum seekers outside of major arrival centres is now common in many European countries, and access to welfare payments may well be dependent on conforming to this dispersal programme. Dispersal may leave female asylum seekers isolated and vulnerable, away from community support and unable to access the legal and medical services that they may need. Sales (2002) demonstrated that in the UK, women, especially those with children, are forced to comply with the dispersal system to a greater extent than men because they cannot afford to lose benefits. Men on the other hand are more likely to reject dispersal and live with family and friends receiving subsistence only support.

A phenomenon that has become evident in recent years is the increasing use of detention as a way of controlling asylum seekers who arrive in Europe. This increased use of detention has in some senses become a 'normalised' way of dealing with these people (Bloch and Schuster 2005) but has had important implications for the rights of asylum seekers. The expansion of detention has been made possible by the diffusion of a frame of analysis, which considers asylum seekers as bogus or fraud and a threat to the nation, and which leads to a process of criminalisation of those seeking protection (Welch and Schuster 2005). The 'punitive' side of detention of asylum seekers, which stems from the processes of criminalisation that have taken place in Western societies, is translated where women are concerned, into gender-specific forms of humiliation or harassment. Women may be subjected to sexualised and racialised abuse by guards, abuse that relies on cultural and racial stereotypes and constructions of difference between 'Western' women and those 'other' women who have come to seek protection but who are treated as criminals. Women may often be kept under unsuitable conditions, with poor food and insufficient provisions for hygiene. Their health needs, particularly in respect to reproductive and sexual health, may not be met. Women who have been victims of rape or torture may not be able to access sufficient psychiatric care and support. Particular problems may be posed by mixed gender accommodation (Malloch and Stanley 2005). One recurring issue is that of the employment of male guards in female areas of detention centres, leading to potentially humiliating or shameful situations for women detainees. A report by Legal Action for Women on the Yarl's Wood Centre in the UK highlighted what it describes as 'appalling conditions' within the centre, including 'sexual intimidation, racism and brutality from staff' (Legal Action for Women 2006: 16). A consequence of the rapidly expanding use of detention for asylum seekers in many countries is that there are not enough places in existing detention centres, and so detainees may be housed under very poor conditions. Because of this lack of places, women are often housed in the same spaces as men, with no separate bathroom or toilet facilities. Women in these cases have reported their fears of harassment and

abuse. In France, it has been reported that: 'The massive assignment of women to detention centres has led to serious problems. Instances of prostitution have been noticed, particularly in centres with no effective separation between men and women. Some women have complained of harassment and even of receiving death threats from certain men' (Cimade 2006: 8).

Conclusion

It is clear that highly restrictive asylum policies are politically attractive to European governments and that the protection of the rights of asylum seekers is a low priority, leading to a growing 'rejection' of asylum. This rejection often takes the form of denial of the existence of persecution of the asylum seeker or of increasing demands for 'proof' of persecution, which it is impossible for asylum seekers to provide. These developments have particular negative impacts on women who may be victims of specific forms of gender-related persecution, which they have difficulty in having recognised as legitimate motives for seeking asylum under the Geneva Convention. Whilst in theory, these types of persecution would allow many women to be accorded refugee status, the practices in place discourage this because of the underlying fear of a huge influx of new women asylum seekers if any kind of positive jurisprudence were established in this direction. Although there have been some 'advances' in terms of women receiving refugee status on grounds of gender-specific persecution, these have only been in individual cases, and judges have been careful to frame their decisions in ways that will limit the generalisation of such decisions to other women in similar situations. The asylum process, which involves women recounting their experiences of persecution over and over again, in front of various officials, judges and often members of NGOs as well, also poses a barrier as it requires them to relive and recount experiences, which may have been highly traumatic and which might seem 'shameful' to them. These processes tend to reinforce gendered stereotypes of women as passive and 'apolitical' victims and to create a continuing notion of 'illegitimacy' of asylum claims based on the grounds of gender-related persecutions. Further, the restrictions on access to housing and welfare services have a profoundly negative impact on women asylum seekers, reinforcing gendered inequalities in capital and resources. However, the persecutions and violence that push women to leave their countries and to seek asylum in Europe continue to exist. These persecutions are related to global problems of conflict, civil war, genocide and ethnic violence but also to particular forms of violence and discrimination based on gender and aimed specifically at women. The continuing nature of such conflict and persecution means that it is unlikely that the flow of asylum seekers into European countries will diminish significantly in the short term. The scenario for the future of asylum seekers in Europe thus looks bleak, with increasing levels of rejection leading to them remaining in a state of 'illegality' with few material resources and a constant threat of arrest and detention. If Europe is to live up to its commitments to protecting the rights of those seeking asylum from persecution, then it must consider not only the 'costs' associated with receiving and supporting asylum seekers but the real costs in terms of human rights if it fails to offer adequate protection to both men and women seeking refuge.

References

- Ankenbrand, B. (2002), Refugee Women under German Asylum Law, *International Journal of Refugee Law*, 14, 1: 45–56.
- Bexelius, M. (2006), *Swedish Law and Practice and Gender Persecution: Summary Conclusions and Comments*, unpublished document provided by author.
- Bhabha, J. and Shutter, S. (1994), *Women's Movement: Women Under Immigration, Nationality and Refugee Law*. Stoke on Trent: Trentham Books.
- Binder, S. and Tasic, J. (2005), 'Refugees as a Particular Form of Transnational Migrations and Social Transformations: Socioanthropological and Gender Aspects', *Current Sociology*, 53, 4, pp. 607–624.
- Bloch, A. and L. Schuster (2002), Asylum and Welfare: Contemporary Debates, *Critical Social Policy*, 22, 3, pp. 393–414.
- Bloch, A. and Schuster, L. (2005), 'At the extremes of exclusion: Deportation, detention and dispersal', *Ethnic and Racial Studies*, 28, 3, pp. 491–512.
- Bloch, A., Galvin, T. and Harrell-Bond, B. (2000), 'Refugee Women in Europe: Some Aspects of the Legal and Policy Dimensions', *International Migration*, 38, 2: 169–190.
- Boswell, C. (2000), European Values and the Asylum Crisis, *International Affairs*, 76, 3: 537–557.
- Boswell, C. (2003), 'The "external dimension" of EU immigration and asylum policy', *International Affairs*, 79, 3, pp. 619–638.
- Bunch, C. (1995), 'Transforming Human Rights from a Feminist Perspective', in J. Peter and A. Wolpe (eds), *Women's Rights, Human Rights*, New York: Routledge.
- BWRAP and WAR (2006), *Misjudging Rape: Breaching Gender Guidelines and International Law in Asylum Appeals*, London: Crossroads Books.
- Carpenter, R. C. (2005), "Women, Children and Other Vulnerable Groups": Gender, Strategic Frames and the Protection of Civilians as a Transnational Issue, *International Studies Quarterly*, 49: 486–500.
- Center for Reproductive Rights (2003), *Body and Soul: Forced Sterilization and Other Assaults on Roma Reproductive Freedom*, New York: Center for Reproductive Rights.
- Charlesworth, H. and Chinkin, C. (2000), *The Boundaries of International Law: A Feminist Analysis*, Manchester: Manchester University Press.
- Charlesworth, H. et al (1991), 'Feminist Approaches to International Law', *American Journal of International Law*, 85, pp. 613–664.
- Cimade (2006), *Centres et locaux de rétention administrative – rapport 2005*, Paris: Cimade.
- Clarence, E. (2003), Ignored and Isolated: Women and Asylum Policy in the United Kingdom, in J. Freedman (ed), *Gender and Insecurity: Migrant Women in Europe*. Aldershot: Ashgate.
- Copelon, R. (1994), 'Intimate terror: Understanding domestic violence as torture', in R. Cook (ed), *Human Rights of Women: National and International Perspectives*, Philadelphia: University of Pennsylvania Press.
- Crawley, H. (2001), *Refugees and Gender: Law and Process*, Bristol: Jordan.
- Crawley, H. and Lester, T. (2004), *Comparative Analysis of Gender-Related Persecution in National Asylum Legislation and Practice in Europe*, Geneva: UNHCR.
- Daniel, E. V. (1996), *Charred Lullabies: Chapters in an Anthropology of Violence*, Princeton: Princeton University Press.
- Duvell, F. and Jordan, B. (2002), Immigration, Asylum and Welfare: The European Context, *Critical Social Policy*, 22, 3: 498–517.
- Eagle, A. (2002), *Asylum Seekers' Experiences of the Voucher Scheme in the United Kingdom—Fieldwork Report*, London: Home Office Research, Development and Statistics Directorate.
- Enloe, C. (2000), *Maneuvers: The International Politics of Militarizing Women's Lives*, Berkeley: University of California Press.
- Forbes Martin, S. (2004), *Refugee Women*, Maryland: Lexington Books.
- Freedman, J. (2003), Selling Sex: Trafficking, Prostitution and Sex Work amongst Migrant Women in Europe, in J. Freedman (ed), *Gender and Insecurity: Migrant Women in Europe*. Aldershot: Ashgate.
- Freedman, J. (2007), *Gendering the International Asylum and Refugee Debate*, Basingstoke: Palgrave Macmillan.
- Geddes, A. (2000), *Immigration and European Integration: Towards Fortress Europe?* Manchester: Manchester University Press.
- Goodwin-Gill, G. (1996), *The Refugee in International Law*, Oxford: Oxford University Press.
- International Commission of Jurists (2003), *Violence Against Women in Bangladesh*, Geneva: International Commission of Jurists.
- Jaubany-Baucells, O. (2002), 'The state of welfare for asylum seekers and refugees in Spain', *Critical Social Policy*, 22, 3, pp. 415–435.

- Kennedy, P. and Murphy-Lawless, J. (2003), The Maternity Care Needs of Refugee and Asylum-Seeking Women in Ireland, *Feminist Review*, 73: 39–53.
- Kofman, E., Phizacklea, A., Raghuram, P., Sales, R. (2000), *Gender and International Migration in Europe*. London: Routledge.
- Koser, K. (2001), 'New approaches to asylum?', *International Migration*, 39, 6, pp. 85–100.
- Legal Action for Women (2006), *A "Bleak House" in Our Times: An investigation into women's rights violations at Yarl's Wood Removal Centre*, London: Crossroads Books.
- Liedtke, M. (2002), 'National welfare and asylum in Germany', *Critical Social Policy*, 22, 3, pp. 479–497.
- Macklin, A. (1995), Refugee Women and the Imperative of Categories, *Human Rights Quarterly*, 17, pp. 213–277.
- Malloch, M. and Stanley, L. (2005), 'The detention of asylum seekers in the UK: Representing risk, managing the dangerous', *Punishment and Society*, 7, 1, pp. 53–71.
- Mohanty, C. T. (1991), *Third World Women and the Politics of Feminism*, Bloomington: Indiana University Press.
- Molyneux, M. and Razavi, S. (2002), *Gender Justice, Development and Rights*, Oxford: Oxford University Press.
- Montgomery, E. and Foldspang, A. (2005), 'Predictors of the Authorities' Decision to Grant Asylum in Denmark', *Journal of Refugee Studies*, 18, 4, pp. 454–467.
- Morris, L. (2002), Britain's asylum and immigration regime: the shifting contours of rights, *Journal of Ethnic and Migration Studies*, 28, 3: 409–425.
- Noiriel, G. (1991), *Réfugiés et sans-papiers. La République face au droit d'asile*, Paris: Calmann-Lévy.
- Oswin, N. (2001), An Exploration of Feminist Approaches to Refugee Law, *International Feminist Journal of Politics*, 3, 3: 347–364.
- Oxfam and the Refugee Council (2002), *Poverty and Asylum in the UK*, London: Refugee Council.
- Pearce, H. (2003), An Examination of the International Understanding of Political Rape and the Significance of Labeling it Torture, *International Journal of Refugee Law*, 14, 4: 534–560.
- Rao, A. (1995), 'The Politics of Gender and Culture in International Human Rights Discourse' in J. Peters and A. Wolper (ed), *Women's Rights, Human Rights*, New York: Routledge, pp. 167–175.
- Refugee Action (2002), *Is it Safe Here? Refugee Women's Experiences in the United Kingdom*, London: Refugee Action.
- Refugee Women's Resource Project (2005a), *Women's Asylum News*, 52, July-August, London: Refugee Women's Resource Project.
- Refugee Women's Resource Project (2005b), *Women's Asylum News*, 53, September, London: Refugee Women's Resource Project.
- Refugee Women's Resources Project (2006), *"Lip service" or implementation: The Home Office Gender Guidance and women's asylum claims in the UK*, London: Refugee Women's Resources Project.
- Sales, R. (2002), The Deserving and the Underserving? Refugees, Asylum Seekers and Welfare in Britain, *Contemporary Social Policy*, 22, 3: 456–478.
- Sen, G. and Correa, S. (1999), *Gender Justice and Economic Justice*, New York: UNIFEM.
- Spijkerboer, T. (2000), *Gender and Refugee Status*, Aldershot: Ashgate.
- Stevens, M. (1993), 'Recognizing gender-specific persecution: A proposal to add gender as a sixth refugee category', *Cornell Journal of Law and Public Policy*, pp. 179–219.
- UNHCR (1991), *Guidelines on the Protection of Refugee Women*, Geneva: UNHCR.
- UNHCR (1995), *Sexual violence against refugees: Guidelines on protection and response*, Geneva: UNHCR.
- UNHCR (2002), *Guidelines on international protection: Gender-related persecution within the context of Article 1(A)2 of the 1951 Convention and/or its 1967 Protocol relating to the Status of Refugees*, Geneva: UNHCR.
- UNHCR (2006), *The State of the World's Refugees*, Geneva: UNHCR.
- Valji, N. (2001), 'Women and the 1951 Refugee Convention: Fifty Years of Seeking Visibility', *Refugee*, 19, 5, pp. 25–35.
- Valluy, J. (2004), 'La fiction juridique de l'asile', *Plein Droit*, 63, Décembre 2004.
- Valluy, J. (2005), 'La nouvelle Europe politique des camps d'exilés: genèse d'une source élitare de phobie et de repression des étrangers', *Cultures et Conflits*, 57, pp. 13–69.
- Wallace, R. and Holliday, A. (2005), 'The Application of the Gender Guidelines with the UK Asylum Determination Process', AIT Legal and Research Unit Update, Issue 12, June 2005, London: AIT.
- Welch, M. and Schuster, L. (2005), 'Detention of asylum seekers in the UK, France, Germany and Italy: A critical view of the globalizing culture of control', *Criminal Justice*, 5, 4, pp. 331–355.

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