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*Gender, Refugee Status and Permanent Settlement***

Abstract: This article examines how gender is implicated in the stages of defining a refugee, the refugee determination process, and the act of final settlement. After a general overview, specific details are presented for Canada. Canada admits refugees for the purpose of permanent settlement, and it has been the first on the international scene to develop gender-sensitive guidelines and to participate in the process of resettling women at risk of harm. However, data show that women are under-represented in the humanitarian-based flows to Canada. When they enter Canada, they are more likely than men to be married and to enter as spouses rather than as principal applicants.

Introduction

During the closing quarter of the twentieth century, the size of the world's refugee population has grown considerably as a result of social, economic, and political instabilities associated with such factors as the formation of new-nation states in the aftermath of colonial rule, the end of the Cold War (UNHCR, 1997c), and the legacies of earlier military action and foreign policies of industrial nations. Scholars note that in many cases, women outnumber men in these populations experiencing forced displacement (Martin, 1991; Keely, 1992). In its 1997 inventory of UNHCR-assisted refugee populations, the Office of the United Nations

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High Commissioner for Refugees (hereafter UNHCR) enumerates 118 women (age 18 and older) for every 100 men. For the UNHCR-assisted refugee population in camps or centers, the counts are 126 women for every 100 men (UNHCR, 1997b).

Yet, the over-representation of women in refugee flows reverses to under-representation in claims and/or settlement in industrial countries such as Australia, Canada, the Netherlands, France, Sweden, Switzerland, and the United States (Boyd, 1995; Hovy, 1997; United Nations Secretariat, 1995; UNHRC, 1997b). During the 1980s and early 1990s, women constituted four out of ten adults admitted under specific refugee and asylum adjustment legislation in the United States and Canada (Boyd, 1995). Women also are under-represented as asylum claimants, generally defined as those who make their way to a country and claim refugee status there. Dispositions of asylum applications in 1992 and 1993 show that females filed three out of ten applications in the United States and in Canada (Gordon and Boyd, 1994).

These sex-selective outcomes in settlement reflect the fact that gender is deeply embedded in the processes generating refugee flows and providing humanitarian assistance. When permanent settlement occurs, particularly in an industrial country, it occurs within frameworks that are not gender neutral, although they may appear to be so. What constitutes persecution and what criteria are necessary to determine eligibility for settlement invoke images of behaviors and characteristics that draw selectively from gender identities, gender roles, gender power relations, and systems of gender stratification.

This article demonstrates how gender is implicated both in "becoming a refugee" and in permanent settlement opportunities. The analysis begins by reviewing both the gendered nature of the refugee process and recent initiatives to lessen gender bias. This general overview provides a context for the examination of sex-selective humanitarian-based settlement in Canada. The analysis of unpublished data confirms the under-representation of women in admissions for permanent settlement. But, reflecting the growing awareness that gender biases can exist under the guise of gender neutrality, Canada has been the leader in two areas: a) in proposing gender guidelines for claimants within her borders; and b) in adopting the "Women at Risk" program. Both initiatives represent important conceptual modifications to approaches in refugee determination and permanent settlement processes. However, although such approaches are important, they are not likely to substantially alter the under-representation of women in first-world countries of settlement.

Refugees and Permanent Settlement

Movement into a final country of residence is highly codified in refugee law, in bilateral and multilateral agreements between countries, and in procedures used by agencies such as the Office of the United Nations High Commissioner for Refugees to provide assistance to those in flight. Discussions of those in flight include a myriad of terms not always mutually exclusive or exhaustive, since those in flight can experience diverse and changing statuses (UNHCR, 1997c). However, in this article, the internally displaced and those outside their countries of origins are useful distinctions. The term “internally displaced” refers to those persons who have fled their homes but remain within the borders of their countries. Others will have left their countries of origin. Where protection cannot be assured by the country of refuge or where voluntary repatriation or local integration is not possible, some who have left their countries will obtain permanent resident status in another “third” country.

Permanent settlement in industrial countries in North America, Europe, and Oceania can be initiated in two ways. The first is when individuals or groups are residing outside potential first-world countries of settlement, but are identified by organizations such as the UNHCR or by national governments as in need of permanent settlement in another country. The second occurs when individuals or groups travel to an industrial country and present themselves as in need of sanctuary and thus settlement. In both cases, countries usually demand that persons establish that they are refugees as defined by international law. Until such statuses are granted, usually through interviews, hearings, or adjudications, such persons are called “asylum seekers” or “refugee claimants.” Permanent settlement from abroad or petitions for settlement by individuals already within the borders of a potential host thus demands that persons are able to establish that they are refugees by undergoing the process of refugee determination. However, considerable inter-country variability exists in the refugee determination process, which usually is outlined in domestic laws and regulations. Intra-country variations also exist since procedures followed in the refugee status determination process can vary depending on whether persons are processed abroad or within a given country’s borders. A final variation arises from the fact that countries of potential permanent settlement often define additional groups in need of protection and settlement in addition to those groups meeting the refugee definition employed by the UNHCR (see below).

Although seemingly gender neutral, gender permeates definitions, the process of refugee determination, selection for permanent settlement, and ultimately the sex composition of those who are settled. The term “gender” rather than “sex” is

deliberate here. "Gender" explicitly rejects biological explanations for hierarchies of inequality and power that privilege men and disadvantage women. Rather than being a fixed trait, invariant over time, gender is constructed through social and cultural ideals, practices, and displays of masculinity and femininity (Scott, 1986; Hondagneu-Sotelo, 1994). Embodied in gender roles, relations, and hierarchies, gender is a core organizing principle of social relations and opportunities. The influence of gender becomes especially evident when discussing the situation of women in flight and their chances for permanent settlement in industrial countries.

Who is a Refugee?

According to Article 1 of the 1951 United Nations Convention Relating to the Status of Refugees, a refugee is a person who "... owing to well founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable, or owing to such fear, is unwilling to avail himself of the protection of that country..." Originally intended to deal with the aftermath of World War II, expiration deadlines and geographical restrictions embedded in the 1951 Convention were removed by the 1967 Protocol Relating to the Status of Refugees. For full reproduction of the 1951 and 1967 documents, see Loescher and Loescher (1994).

Signatories to the UN Convention and to the 1967 Protocol agreed to extend protection to those found to be refugees under the UN definition. As of May 1998, 136 governments had signed the Convention or the Protocol. In addition to those covered by the 1951 definition of refugees, other populations are of concern to UNHCR, including those who are displaced internally in their country of origin and those who are outside their country of origin and in a refugee-like situation but not officially recognized as such (UNHCR, 1997b).

The definition of a refugee found in the 1951 Convention and the 1967 Protocol is individualistic in focus. It emphasizes that the determination of refugee status reflects an incompatibility between the applicant and his/her state or country of origin (Spijkerboer, 1994; Connors, 1997). In some situations, violations are committed directly by the state or state-like authorities against the applicant. In other cases, non-state agents of persecution may exist, but the state may be unable or unwilling to offer protection from persecution.

The UN Convention definition of a refugee emerged in the aftermath of World War II and the Cold War, and as such it drew attention to violations committed directly by the state against individuals (Connors, 1997). Critics observe that the focus on the actions of the state and the violation of civil and political rights

privileges the public side of the public/private divide. Such foci, it is argued, mean that the UN Convention definition of a refugee fails to acknowledge forms of persecution that occur within private settings, which represent violations of human rights, and/or where the state indirectly fails to protect individuals from harm.

Such failures especially affect women. In most societies gender roles and gender stratification prescribe that men are the key participants in the public arena, whereas women are found in the private sphere. As a result, the definition of a refugee found in UNHCR documents is held to be gender blind and thus gender insensitive at best, and based on a male prototype at worst. With either charge, the central concern voiced in feminist writings is that the UN Convention definition privileges the recognition of refugee status for men compared to women. Embedded in this concern are two core themes. First, forms of persecution experienced by women in more private settings are less likely to be recognized as grounds for persecution. Second, the indirect roles of the state in generating and/or sustaining harmful acts are not likely to be acknowledged. From a status of women perspective, additional related points are that the emphasis on the violation of civil and political rights both deflects attention away from the affirmative duty of the state to ensure rights, and ignores the existence of societal-wide discrimination against women (Connors, 1997).

The first core theme refers to the denial of human rights to women through rape, dowry-related burnings, sati or widow burnings, forced marriages, compulsory abortions or sterilizations, female genital mutilation, and domestic violence (Foote, 1995). In some situations, the state may be the agent denying basic human rights, or it may fail to offer protection even though such protection is within its capacity. The second theme is operative when women experience acts of harm either because of their association with others and/or because the state does not protect them. Thus, because of their relationship to others who are explicit targets of persecution, women may be forced to witness killings or acts of brutality, or they may be tortured, often through sexual violence inflicted by the military or by police. They may experience abduction, sexual slavery, forced pregnancy, and HIV infection (Spijkerboer, 1994; UNHCR, Executive Committee, 1997). These women may find it difficult to argue that their victimization was based on one or more grounds found in the refugee definition (persecution based on political views, religion, etc.). Rather than their assaults and inflictions being viewed as violation of human rights, they may be perceived by the courts as private acts inflicted by other individuals (Spijkerboer, 1994; Connors, 1997; UNHCR, 1997a).

The common thread running through both concerns is that persecution takes different forms according to the gender of the person and that persecution is experi-

enced differently by men and by women. The discourse over who is a refugee and how best to take women's experiences into account has had several consequences. First, it has flagged violence against women, particularly sexual violence, to be of major concern (UNHCR, 1995). Second, discussion has broadened to include other forms of gender-based persecution, such as harsh or inhuman treatment as a result of the transgression of social mores for which the sanction is death; harmful practices such as female genital mutilation; coercive population management policies, often involving forced abortions or sterilization; and domestic violence for which there is no community or legal state protection (UNHCR, Executive Committee, 1997). Third, it has stimulated discussions on changing the grounds for persecution which are found in the 1951 Convention definition of a refugee.

Two models for change exist within the realm of refugee law (Spijkerboer, 1994). The basic distinction between these two models rests on whether women are persecuted *as* women or *because* they are women. In the former case, the 1951 Convention grounds still hold, although gender may explain why a woman is persecuted, the forms that the persecution takes, and the extent to which women may be at risk (Macklin, 1995). This approach assumes that the refugee definition is not male biased, although it concedes that the public/private divide makes women's experiences less easily recognized as being grounds for persecution. The solution then, is to blur the public/private dichotomy (Greatbatch, 1989; Spijkerboer, 1994), partly by emphasizing the gender-specific ways in which persecution may be manifest. Vehicles for the increase of awareness of how persecution is mediated by gender include guidelines, staff training manuals, and briefing sessions for persons adjudicating refugee status claims and/or providing services to such populations. The second approach argues that refugee law is indeed gendered and, in its current form, cannot adequately recognize the persecution of women in the private sphere. A different definition of refugee is required that either includes gender as a ground for persecution, or interprets the persecution grounds of social group as including gender (Spijkerboer, 1994). This approach assumes a causal connection between gender and persecution: women are persecuted because of their gender (Macklin, 1995). This model emphasizes the pernicious effects of gender discrimination and the complicity of the state in denying women their fundamental human rights.

In actuality, the line between these two alternative approaches for change is blurred. Macklin (1995) observes that in real life one can be persecuted as a woman (raped) for reasons not related to gender, such as membership in a particular ethnic group. Alternatively, one may be persecuted not as a woman (flogged), but because of gender (refusal to conform to gender proscriptions of dress and demeanor). One also may be persecuted as a woman and because of gender (genital mutilation).

Although much discussion and many court decisions exist around whether or not gender is a social group (Connors, 1997; UNHCR, 1997), most legal experts advocate remaining within the confines of the grounds stipulated in the 1951 Convention, while recognizing that the forms of persecution are gendered, and that in some circumstances the grounds of membership in a social group may adequately describe the situation of a woman seeking refugee status (see Connors, 1997; Macklin, 1995; Spijkerboer, 1994). The reluctance to make membership in the social group “women” grounds for persecution partly rests on the following legal considerations: a) what constitutes a social group; b) the tautology created when persecution defines a social group and membership in a social group becomes the grounds for claiming persecution; and c) the fact that the suffering of a particular group sometimes is indistinguishable from that experienced throughout the country of origin (Macklin, 1995; Connors, 1997; UNHCR, 1997). At a global level, however, pragmatic considerations also exist. It is highly unlikely that many nations would agree to change the 1951 UN Convention that specifies gender as a social group. To date, whether women are persecuted because of their gender is decided in the courts on a case-by-case basis, with varying results (UNHCR, 1997a). The case of Kasinga, who argued that she would have to undergo female circumcision if she returned to her country, is perhaps the most widely known case to date in the United States (Malone and Wood, 1997).

Attaining Refugee Status

Feminist-based discourse during the past two decades has unquestionably enhanced awareness of gender-based persecution. This latter phrase refers to the forms of harm that are regularly experienced by women and girls and are directed at them because of their sex (United Nations, Division for the Advancement of Women, 1997). The emphasis on gender-based persecution draws attention to the different forms that persecution can take, depending on the sex of the person. It also recognizes that persecution of women may occur because of the violation of social customs and mores which are gender proscriptive, and that states may fail to provide protection from harm, or may be implicated in the denial of fundamental human rights to women.

Because it broadens the range of experiences that are linked to persecution grounds, awareness of gender-based persecution is a necessary ingredient when considering who is a refugee (Spijkerboer, 1994). But other obstacles to attaining refugee status remain for women. One obstacle is that refugee determination procedures frequently reproduce existing gender hierarchies where men are considered

heads of households and women are viewed as dependents. When women flee in the company of male relatives (spouses, fathers, brothers), they may not be asked about their experiences except to corroborate those of male family members (Martin, 1991; Hinshelwood, 1997). In such circumstances, the fates of women who might, on their own terms, meet the definition of a refugee are fused with those of their male relatives. The practice of linking women to men also exists when issuing documents. In countries of asylum, documents such as identification cards, or even papers granting the right to remain, may be issued to men but not to women family members. If men die, are absent, or are subsequently considered not eligible to remain, women may not be able to prove they are legally in the country of asylum (Martin, 1991).

If gender stratification determines where attention is focused and who receives documentation, it also permeates procedures whereby persecution is established. Assessing accounts of harmful acts involves an understanding of the conditions of the country or state from which the person has fled and an understanding of the consequences should the person return. Yet, country descriptions usually emphasize the public sphere. Country-specific information may be genderless, or—as feminist historians note—a “his-story,” rather than one that illuminates gender inequalities. Also, few refugee documentation centers have information about the condition of women in any given country (Kelley, 1989)

Gender roles also condition the refugee determination process in two ways. First, shame and negative sanctions can make women extremely reluctant to discuss rape and other forms of sexual violence, particularly in front of male interviewers, in the presence of family members, or when interpreters—who may be known to others in the community—are used (Kelley, 1989; Martin, 1991; UNHCR, 1995). Special efforts often are required to elicit accounts of harm. Such efforts range from culturally sensitive approaches when dealing with sexual violence, to the use of female interviewers. To date, few countries have female staff involved in the refugee determination process (Kelley, 1989; UNHCR, 1995).

By affecting social interaction styles in interviews, gender roles also influence the refugee determination process. Deference or nervousness in situations of authority, hesitation in speech, reticence, or aversion of direct eye contact may be behaviors deemed appropriate for women in some societies. Yet they may be interpreted by interviewers as indicating deceit, shiftiness, or uncertainty. Trauma-induced styles also compound these difficulties (Agger, 1994). Because of a need to control the despair, terror, and anger over rape, torture, and other abuses, survivors may appear relatively emotionless and detached. Such actions may be viewed as suspicious, contrived, or rehearsed, with the result that a woman's story is not

evaluated as credible (Hinshelwood, 1997; UNHCR, Division of International Protection, 1997).

Permanent Settlement

Three outcomes exist for persons who are refugees or in refugee-like situations. Once conditions in the country or area of origin become safe, return (repatriation) may be possible. For others, local settlement and integration in the country of first asylum may occur. The third option is final settlement, involving the transfer of refugees from the country where they sought refuge to another that has agreed to accept them on a permanent basis. Under UNHCR auspices, the third outcome is relatively infrequent, occurring only when the life, liberty, safety, health, or human rights of refugees are at risk in the country in which they originally sought refuge.

In order for the third outcome to exist, a person usually must be defined as a refugee and thus have his/her claims of persecution validated through the refugee determination process. However, industrial countries which agree to resettle refugees often add admissibility criteria to the basic eligibility criteria. These additions derive from concerns that resettled refugees do not pose health or security threats to the host population, and that they will not require extensive and long-term social assistance. In these circumstances, eligibility is necessary, but not sufficient. Criteria of admissibility, which usually include assessments of education, job skills, and income potentials, also must be met.

Even when women are able to establish gender-related persecution and are accorded refugee status, they may experience difficulties in becoming accepted for permanent settlement in an industrial country because of admissibility criteria. Gender stratification in refugee camps can result in refugee men occupying important mediating positions that, in turn, increase their chances of selection for settlement elsewhere (Martin, 1992). Gender stratification in most societies, particularly less industrialized ones, also means that women often have less education than men, and exhibit different or non-existent labor market skills and experiences. Such characteristics suggest women are likely to experience greater difficulty in meeting the self-sufficiency criteria invoked by an industrial country for admission. As well, many women have children and other dependents for whom they show responsibility. This fuels concern that women refugees will take longer than men, particularly single men, to acquire self-sufficiency. Gender inequalities in earnings in the host country also contribute to potential economic difficulties faced by women. As a result of all these concerns over self-sufficiency, selection procedures favor the permanent settlement of men (Kelley, 1989).

Cumulative Impacts: The Canadian Case

The preceding overview shows that gender is deeply embedded in the elements that link refugees and permanent settlement. Who is a refugee, the structure of the refugee determination process, and admissibility criteria associated with settlement selection practices of industrial nations can assume a male-public sphere prototype. In such settings, women may face difficulties in attaining refugee status either because of the persecution grounds that are part of the definition of a refugee or because the social interaction of the refugee determination process reflects gender roles and gender hierarchies. Even if refugee status is attained, admissibility criteria may pose additional obstacles for the permanent settlement of women in another country. The likely cumulative impact is that refugee settlement in industrial nations is sex selective. Men, not women, predominate.

Unpublished Canadian data illustrate the predominance of men in refugee admissions. Between 1985 and 1994, approximately 40,000 women were admitted to Canada, having established their eligibility by meeting the UN Convention definition of a refugee (Table 1, column 3). In contrast, close to 66,000 men, age fifteen and older, were admitted as Convention refugees during the same period. The Canadian Immigration Act, of 1976, and amendments introduced in Bill C-86 (December, 1992), also provide for the admission of other groups on humanitarian grounds. "Designated classes" is a term used to capture a variety of "... 'refugee like' situations such as mass outflow (Vietnam), disproportionate punishment for violation of strict exit controls (self-exiles) and the internally displaced, including political prisoners" (Employment and Immigration. Refugee Affairs Immigration Policy Group, 1993). During the ten-year period, many more men entered Canada in this category than did women (Table 1, column 4).

In addition to numerical counts, sex ratios also reveal the under-representation of women in humanitarian-based flows to Canada. The "immigrant" category in Table 1 refers to those migrants who enter for purposes of family reunion or on the basis of economic contributions. For every 100 men in this group, 118 women entered Canada, reflecting in part the movement of wives to join husbands already present in Canada. In contrast, for every 100 men admitted in the UN Convention refugee category, 61 women were admitted. A similar ratio describes the situation for admission in the "designated" classes.

Women are particularly under-represented in humanitarian-based admissions if they are single. For every 100 men who were single and admitted as UN Convention refugees, only 40 women were admitted between 1985-1994. They were also substantially under-represented among those who were the principal applicants for

TABLE 1
Sex Ratios (Females per 100 Males) by Category of Admission
for Persons Age 15 and Older, Canada, 1985–1994

	Total (1)	Immigrants (2)	Convention Refugees (3)	Designated Class (4)
Numbers				
Women	770,929	677,300	40,392	53,237
Men	725,304	573,349	65,720	86,235
Sex Ratios (F/M)				
Total	106	118	61	62
Marital Status				
Single	86	100	40	45
Married	109	116	82	72
Other	349	398	201	140
Applicant Entry Status				
Principal Applicant	74	87	36	29
Spouse	722	671	1045	1256
Dependents	89	89	87	85

Source: Special tabulations purchased by the author from Citizenship and Immigration Canada.

admission. “Principal applicants” is a term referring to those persons who file applications for admission, are evaluated for admission, and are issued the primary visa for entry. Conversely, among those admitted as spouses, women far outnumber men (Table 1).

These data confirm that entry into Canada is gendered in two ways for refugees and persons considered by Canada to be in need of asylum. First, men substantially outnumber women in the Convention refugee and designated classes. Second, when men enter Canada on the basis of humanitarian criteria, their profile elicits images of autonomous migrants, whereas the profile for women is suggestive of tied-movers, or dependents. Of those admitted to Canada as UN Convention refugees, over half of the men are single. Conversely, slightly over half of all women admitted as UN Convention refugees are married. Only 2 percent of men admitted as UN Convention refugees enter as spouses of the principal applicant, whereas over one-third of women do (Table 2). Over 90 percent of all men admitted as UN Convention refugees are principal applicants, rather than spouses or dependents.

Gender differences also exist in the mode of entry into Canada. Between 1985 and 1994, slightly over one-half of the men were granted admission after they

TABLE 2
Marital Status and Applicant Entry Status for Persons Age 15 and Older by
Sex and Category of Admission, Canada 1985-1994

	Immigrants		Convention Refugees		Designated Persons	
	Women (1)	Men (2)	Women (3)	Men (4)	Women (5)	Men (6)
Marital Status	100.0	100.0	100.0	100.0	100.0	100.0
Single	33.2	39.1	36.3	56.0	32.9	45.4
Married	57.0	58.0	55.4	41.4	59.9	51.4
Other	9.8	2.9	8.4	2.6	7.2	3.2
Applicant Entry Status	100.0	100.0	100.0	100.0	100.0	100.0
Principal Applicant	54.4	73.7	53.7	91.2	42.5	90.4
Spouse	29.8	5.2	37.0	2.2	47.6	2.3
Dependents	15.8	21.0	9.3	6.6	9.9	7.2

Source: Special tabulations purchased by the author from Citizenship and Immigration Canada.

had traveled to Canada and sought asylum, compared to less than half of the women entering in the UN Convention category (Table 3, column 2). The pattern persists for those entering the designated classes categories although most in this group are processed abroad. Membership in a designated class is usually determined by ministerial orders, and by definition involves the identification of groups outside Canada. This favors a higher rate of processing of cases outside Canada.

Why are women admitted for permanent settlement on the basis of humanitarian principles less likely than men to be processed within the country? Immigration officials attribute the lower representation of women in the within-Canada admissions to the fact that compared to men, women may be less likely to undertake or be successful at making long, often clandestine, journeys to reach Canada. Compared to men, women may lack the same level of economic resources and networks to undertake such journeys. Gender roles may dampen or preclude their reliance on male traffickers to negotiate border crossings. Rape and other forms of sexual violence while making such trips are real risks as well.

Earlier discussion noted the difficulties that women may have in proving their refugee status claims. The fact that a higher percentage of women than men are likely to be processed outside Canada does not disprove the existence of such difficulties. In both types of settlement processes, women who are admitted for humanitarian reasons are under-represented relative to men, suggesting a sex-selective process at work. This under-presentation occurs in every year throughout the

TABLE 3
Within Canada and Outside of Canada Place of Processing for Persons
Age 15 and Older, by Admission Categories, Canada 1985–1994

	Immigrants (1)	Convention Refugees (2)	Designated Class (3)
Percentages			
Women	100.0	100.0	00.0
In Canada	21.5	46.5	22.7
Abroad	78.5	53.5	77.3
Men		100.0	100.0
100.0			
In Canada	17.2	51.9	28.6
Abroad	82.8	48.1	71.4
Sex Ratios			
In Canada	148	55	49
Abroad	112	68	67

Source: Special tabulations purchased by the author from Citizenship and Immigration Canada.

ten-year period under review. However, yearly statistics indicate increases over time in the overall percentages of women in the permanently settled adult refugee population (Canada. Citizenship and Immigration Canada. International Refugee and Migration Policy Branch, 1994).

Gender Sensitivity: New Initiatives

As a country, Canada has a lengthy history of accepting newcomers, as well as of attentiveness to gender equality issues. This latter attentiveness has generated considerable attention to the situation of immigrant women. It also has elicited proactivity regarding the three elements of the refugee-permanent settlement link (definition, refugee determination procedures, and admissibility criteria) that can depress the numbers of refugee women admitted to Canada.

On International Women's Day in 1993, the chairperson of the Immigration and Refugee Board of Canada (IRB) released guidelines for women refugee claimants fearing gender-related persecution (Immigration and Refugee Board of Canada, 1993; Mawani, 1993). Mandated by Canada's Immigration Act of 1976, and Bill C-86, which amends the act to adjudicate the claims of those seeking asylum, the IRB consists of three divisions: the Convention Refugee Determination

Division, the Immigration Appeal Division, and the Adjudication Division. The chairperson is authorized to issue guidelines to assist members of these divisions in carrying out their duties.

The guidelines were the first to be drafted by any country to specifically address the issue of gender-related persecution. Since then, guidelines have been adopted by the United States (U.S. Department of Justice, Immigration and Naturalization Service, 1995; Scialabba, 1997) and Australia (Anonymous, 1997). Despite their similarities and differences (Macklin, 1998, forthcoming), all of these guidelines focus on the need to be gender sensitive when considering the grounds for persecution and to take special efforts where possible in the refugee determination process (such as having female interviewers). All stop short of declaring gender to be a social group and, thus, explicit grounds for persecution.

With respect to the Canadian guidelines, Macklin (1995) correctly notes that the guidelines supply gender-sensitive advice to statutory interpretations. The definition of a refugee found in the 1951 UN Convention remains unaltered. However, the guidelines highlight the fact that women refugee claimants fall into four broad categories: 1) those who fear persecution on the same Convention grounds and in similar circumstances as men such that the risk factor is not their sexual status per se, but their identity (national, ethnic, religion); 2) those who fear persecution solely for reasons of kinship, that is because of the status, activities, or views of their spouses, parents, siblings, or other family members; 3) women who fear persecution resulting from certain circumstance of severe discrimination on grounds of gender, acts of violence either by public authorities, or at the hands of private citizens; and 4) women who fear persecution as the consequence of failure to conform to or transgression of certain gender-discriminating religious customs, laws, and practices in their country of origin. The 1993 guidelines also provide examples of how Convention grounds of race, religion, nationality, and political opinion could be mediated by gender to produce situations in which women would be at risk of persecution. The document suggests that in some circumstances the family might be considered as a particular social group insofar as kinship may constitute the risk factor. This suggestion seeks to address the cases wherein women were persecuted because of the activities of other family members. The 1993 guidelines also discuss the possibility that gender might be considered a social group.

In 1996, revised guidelines were issued. Slightly modified from the original version, these included more discussion of women as a social group who are persecuted as a result of their membership in that group. Decision makers are urged to refer to a 1993 Supreme Court decision, *Canada (Attorney General) v. Ward*, that

occurred shortly after the original 1993 guidelines were issued, which outlined the categories defining a social group (Tranter, 1993; Adjin-Tettey, 1997). At the same time, the revised guidelines stop short of declaring gender a social group, and thus a basis for fearing persecution. Despite ongoing discussion of whether or not women form a particular social group (Foote, 1994; Adjin-Tettey, 1997), one reason for the stance taken by the 1993 and 1996 guidelines is that the IRB lacks the jurisdiction to add gender, as this can be accomplished only through parliamentary legislation (Macklin, 1995). The 1996 guidelines, also repeat the admonitions found in the 1993 guidelines that refugee status is an individual remedy and that a claim based on social group membership may not be sufficient to elicit refugee status. A female claimant would need to show that she has genuine fear of harm, that the harm would be sufficiently serious to constitute persecution, that there would be a reasonable possibility such persecution would occur if she were to return to her country, and that she would have no reasonable expectation of adequate protection. Under such stipulations, for example, stating that one disagrees with laws and practices that subordinate women to men in the country of origin would not be sufficient to establish persecution on the grounds that one is a woman.

The Canadian guidelines have been hailed as a watershed for gender-related persecution issues. However, they are not without critics. For some, the guidelines go too far, either because they (erroneously) are viewed as opening the gates to a flood of bogus claimants (MacMillan, 1993b), or because they evoke Western values in the refugee-determining process by suggesting that some cultural practices may cause women to be at risk of persecution. Others argue that the guidelines do not go far enough. They remain as guidelines rather than as changes in regulations, and they fail to stipulate that gender is a social group (MacMillan, 1993b; Macklin, 1995). Critics also charge that the guidelines place women in enormous difficulty when domestic violence exists. A woman hypothetically could claim domestic violence as grounds for persecution, but under normal IRB practices, refugee claims of spouses tend to be heard jointly. Macklin (1995) notes that a woman is not likely to give the necessary evidence when the perpetrator of her persecution is also part of the case in which refugee status is sought.

A final objection is that the guidelines have jurisdiction only for refugee claimant cases heard within Canada, where IRB members must demonstrate compliance with the issued guidelines for gender-related persecution. Canadian officials overseas are not held accountable to these guidelines (Foote, 1995). A divide is thus created between women who present themselves in need of asylum inside Canada and those who do so outside. The former have their cases heard by adjudicators who must report if gender-related persecution was an issue in the case, and

how it was decided. If their refugee claims are successful, the former also do not have to satisfy admissibility criteria to settle in Canada. In contrast, women who experience gender-related persecution and who are outside of Canada may or may not be successful in attaining refugee status. If they do attain such status, they may not be admissible because of poor prospects for settlement.

Have the Canadian guidelines been successful? Yes, if one considers that they stood as a model for subsequent action in Australia and in the United States (U.S. Department of Justice, Immigration and Naturalization Service, 1995). However, it is difficult to show that the guidelines improve the chances for women to be deemed Convention refugees given the variability that exists across IRB adjudication boards in classifying cases as gender-related persecution. Available evidence indicates that in 1994, 64 percent of the finalized gender-related claims handled by the IRB resulted in the applicant obtaining refugee status (Foote, 1995). Case analysis also illustrates the circumstances in which claims of gender-related persecution are rejected or accepted (MacMillan, 1993a; Macklin, 1998).

Women at Risk

The Canadian guidelines for women fearing gender-related persecution are directed at the definition of a refugee and the manner in which the refugee determination process occurs. The geographical domain is limited to those who apply for refugee status from within Canada. A second initiative exists that reverses the focus. It targets women who qualify for refugee status and who are living outside Canada. This initiative is called the "Women at Risk" program.

Although the focus of this article is on the permanent settlement of refugee women in industrial countries, most women (and men) who are in flight do not experience this outcome. Much of the literature about refugee women emphasizes the extreme vulnerability of refugee women to violence and abuse that occur in flight and in temporary settlement areas, including camps in areas near the countries of origin. Women who are single heads of family or whose adult male relatives are unable to support them are at risk of expulsion, *refoulement* (forcible return), sexual harassment, rape, torture, prostitution, and other forms of exploitation. Added to these risks are the difficulties associated with uprootedness, deprivation of a normal family life, and an absence of community or family ties (UNHCR, Division of International Protection, 1997). Such vulnerability frequently co-exists with low chances for permanent settlement, since these women also are likely to be assessed by potential settlement countries as requiring a great deal of assistance due to trauma, number of children, and generally low levels of education.

Starting in 1987, the UNHCR requested assistance in offering protection by way of permanent settlement to these vulnerable women. Canada's program started in 1987, with admissions first occurring in 1988 (Spencer-Nimmons, 1994). Since then, programs have been established by Australia and New Zealand. The Canadian "Women at Risk" program targets two groups of females who either meet the UN Convention refugee definition or are considered members of designated groups:

- a) "Women at Risk" will be in precarious situations where the local authorities cannot ensure their safety. This includes women who are experiencing significant difficulties in refugee camps, such as harassment by local authorities or by members of their own communities. Urgent protection cases, such as women in physical danger, or in danger of refoulement are to be accorded first priority.
- b) "Women at Risk" also may be applicants who are not in immediate peril but who are existing in permanently unstable circumstances which allow for no other remedy. Because of a low level of skills, or because they are accompanied by small children, or other factors, they may be women who have been passed over by Canada or by other resettlement countries in the past. At the same time they should show potential for eventual successful establishment in Canada. . . . (Immigration Manual, 3:13, No 2, June, 1990).

Critics of this program note that although the program is intended to handle hardship cases where women are at extreme risk and cannot remain in their place of residence, admissibility criteria are invoked. In fact, "relaxed" criteria of admissibility are applied. However, it is not clear what these are, leading to concerns that the subjectivity of visa officers plays too great a role in selecting women for settlement in Canada (Foote, 1995). Other concerns focus on the scarce resources available for administering the program in the field, the deleterious effects of overseas staff having to deal with different government departments, each with potentially different goals, and the lack of awareness by visa and protection officers of female-specific needs and experiences (Spencer-Nimmons, 1994). Administratively, perhaps the greatest criticism focuses on the delays in removing women (and their dependents) from situations of extreme danger. In recent years, the waiting time for the necessary processing has crept upwards from the three months considered to be an absolute maximum. One result of the delays is that field personnel who seek to remove women from dangerous situations are not bringing these to the attention of Canadian officials, since resolutions appear so long term. This is partly responsible for the declining admissions to Canada in the mid-1990s. In April 1998, an international workshop was hosted by Citizenship and Immigration

Canada on the Women at Risk program worldwide (known Assistance to Women at Risk or AWR), where this problem was discussed along with others. A overview UNHCR report on the worldwide AWR programs is in preparation. The Canadian response includes efforts at reducing the time delays in processing cases.

A final criticism is that the numbers admitted are small, particularly in the face of needs and other settlement mechanisms. Table 4 shows the number of cases and persons (women and dependents) admitted to Canada between 1988 and 1997 in the Women at Risk program. The net addition of 1,026 persons through this program represents less than 1 percent of all Convention refugees admitted during this period. This partly reflects the high expenditures associated with the program. But the numbers are small when compared with the large refugee populations in which women and children predominate.

Conclusion

Increasingly, studies of migrant women ask how gender is implicated in the process of international migration (Hondagneu-Sotelo, 1994; Lim, 1995; Ellis, Conway and Bailey, 1996; Grieco and Boyd, 1998). This article shows that gender is an integral part of the refugee experience. Gender influences the answering of "who is a refugee?" Gender can affect procedures used in the refugee determination process, and through admissibility criteria it produces a sex-selective settlement process in which men are more likely to be resettled than are women.

The importance of gender is shown both in the general review of the refugee-settlement link and with reference to one specific country, Canada. Canada has adopted gender-sensitive guidelines for use in refugee claimant cases, and has also implemented a process of resettling women who are at risk outside Canada. Yet, relative to men, women remain quite under-represented in the humanitarian-based flows to Canada.

Will such trends change in the direction of gender parity? Certainly the last decade has been one of world-wide emphasis on women refugees and on having their experiences captured by a gender-sensitive model of refugee determination. However, with respect to humanitarian-based settlement patterns in industrial nations, the under-representation of women is likely to persist for some time for at least two reasons. First, current demographic trends carry with them the seeds of the future. In Canada, for example, men predominate in the humanitarian-based flows, and they are less likely than women to be married. The higher percentages of single men in the Convention refugee and designated group categories imply a reduction in the possible later migration of women. Once a refugee is given perma-

TABLE 4
Admissions under the Women at Risk Program, Canada, 1988–1997

Years	Number of Cases (Families)	Total Number of Persons
1988	40	97
1989	30	87
1990	28	67
1991	65	140
1992	36	111
1993	51	153
1994	21	85
1995	26	78
1996	17	54
1997	44	154
Total	358	1026

Source: Unpublished tabulations, Citizenship and Immigration, Canada.

ment resident status he or she can sponsor close relatives, provided the sponsor is considered able to assume the required financial and social responsibilities (Boyd, 1989). However, if such men are single, there presumably are no wives to subsequently sponsor.

Second, gender stratification means that in many areas of the world, women have less education and less experience in the labor market or in the formal economy. Related gender roles ensure marriage and childbearing at relatively early ages. In many countries, particularly those subject to political and military strife that generate populations in flight, gender equality will not be quickly attained. In turn, admissibility criteria invoked by countries of potential settlement mitigate against the admission of these women, even if they are eligible for permanent settlement. Taken together, such obstacles do not bode well for gender parity in future refugee settlement flows to industrial countries.

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