

## Women in Refugee Law

Gaps in the protection of women in international refugee law became the subject of academic study and civil society attention in the 1980s.<sup>i</sup> Since then, there have been high-profile legal and policy developments in this field at international and domestic levels.<sup>ii</sup> However, feminist scholars and activists have more recently raised concerns that issues of gender in refugee law have returned to the margins.<sup>iii</sup> More specifically, there may be a perception that enquiry into the protection of refugee women is no longer pressing due to changes in law and practice, such as the adoption of gender guidelines, the mainstreaming of gender training, and the recognition of women as members of a 'Particular Social Group'. Furthermore, as claims that refugee women are inadequately protected by existing legal and policy frameworks date back to the 1980s, the work of scholars investigating the topic may be considered redundant or unoriginal.<sup>iv</sup> The result of these two assumptions is a noted decrease in attention to the question of women in refugee law in recent years.<sup>v</sup>

Considering the above, the conveners aim to bring together senior and early career scholars, practitioners, policymakers, activists and refugee women working in this field around the globe. The aim of the initiative is to recentre the study of refugee women within refugee law. In particular, the initiative challenges the assumption that legal and policy changes in the last 30 years have displaced the need for continued research and advocacy efforts. It aims to safeguard advances and identify contemporary obstacles to the protection of women in refugee law. The broad objective of this initiative is to support a renewed focus on refugee women, reviewing the state of protection in domestic jurisdictions and internationally, enquiring into any setbacks that may have gone unnoticed, and identify new challenges and opportunities for collaborative work.

### Questions to inform the initiative:

1. Where are the women in international refugee law?
2. To what extent are women seeking international protection adequately protected by existing legal frameworks of international refugee law and/or international human rights law?
3. To what extent are refugee women's needs addressed in the current asylum context at international and State levels?
4. Why have previous 'successes' not been mainstreamed into everyday refugee protection?
5. What are the new challenges faced by women seeking international protection?

The conveners are organising a 2-hour online Roundtable in mid-April 2021 for interested senior and early career scholars, practitioners, policymakers, activists and women who have claimed asylum or have refugee status to brainstorm and identify research questions and areas of contemporary significance for the protection of refugee women. Participants may be informed by this Concept Note and the wide questions asked, although this is merely a starting point to a wider discussion.

The ideas, questions and challenges identified during the online Roundtable will form the basis for an online Seminar/Conference in September 2021, where participants will present papers. The Conveners propose to put together a journal special issue following the Conference to be published in 2022.

## Convenors

Dr Christel Querton is a Lecturer in Law at the University of the West of England and has worked for over ten years in the field of refugee, immigration and human rights law. Her research explores international refugee law, armed conflicts and gender. Christel previously practised as an asylum, immigration and human rights barrister and worked with the Women's Project at Asylum Aid as Legal Policy Officer (2010-2012) and then as Advisory Committee member (2012-2019).

Dr Moira Dustin is module convenor and tutor on *Gender, sexual identity and age in the refugee context*, part of the MA in *Refugee Protection and Forced Migration Studies* at the School of Advanced Study, University of London. She is Lecturer in the School of Law, Politics and Sociology at the University of Sussex, where from 2016-2020 she was the UK lead on the European Research Council project *SOGICA - Sexual Orientation and Gender Identity Claims of Asylum: A European human rights challenge*. Moira was also an Advisory Committee member of the Women's Project at Asylum Aid from 2009-2019.

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<sup>i</sup> Edwards, A. 'Transitioning gender: feminist engagement with international refugee law and policy, 1950–2010', *Refugee Survey Quarterly* 29(2) 2010, pp.21–45; Greatbach, J. 'The gender difference: feminist critiques of refugee discourse', *International Journal of Refugee Law* 1(4) 1989, pp.518–27; Macklin, A. 'Refugee women and the imperative of categories', *Human Rights Quarterly* 17(2) 1995, pp.213–77.

<sup>ii</sup> For example, UK - Islam (A.P.) v. Secretary of State for the Home Department; Regina v. Immigration Appeal Tribunal and Another Ex Parte Shah (A.P.) (Conjoined Appeals) [1999] UKHL 20; UN High Commissioner for Refugees (UNHCR), Guidelines on International Protection No. 1: Gender-Related Persecution Within the Context of Article 1A(2) of the 1951 Convention and/or its 1967 Protocol Relating to the Status of Refugees, 7 May 2002, HCR/GIP/02/01, available at: <https://www.refworld.org/docid/3d36f1c64.html> [accessed 26 December 2020]; Canada: Immigration and Refugee Board of Canada, Guidelines Issued by the Chairperson Pursuant to Section 65(4) of the Immigration Act: Guideline 4 - Women Refugee Claimants Fearing Gender-Related Persecution, 13 November 1996, No. 4, available at: <https://www.refworld.org/docid/3ae6b31c98.html> [accessed 26 December 2020]

<sup>iii</sup> Efrat Arbel, Catherine Dauvergne and Jenni Millbank, 'Introduction: Gender in Refugee Law - from the Margins to the Centre' in Efrat Arbel, Catherine Dauvergne and Jenni Millbank (eds), *Gender in Refugee Law: from the Margins to the Centre* (Routledge 2014).

<sup>iv</sup> Ibid 10.

<sup>v</sup> Of course, this does not mean there has been no scholarship in the last six years, see for example: Deborah Anker, 'The History and Future of Gender Asylum Law and Recognition of Domestic Violence as a Basis for Protection in the United States', (2020) American Bar Association; Catherine Briddick, 'Some other(ed) refugees?: women seeking asylum under refugee and human rights law' in Satvinder S. Juss (ed), *Routledge Handbook in International Refugee Law* (Routledge 2019); Nora Honkala, 'The rights of women seeking asylum: procedural and evidential barriers to protection' in Satvinder S. Juss (ed), *Routledge Handbook in International Refugee Law* (Routledge 2019); Christel Querton, 'Gender and the Boundaries of International Refugee Law: Beyond the Category of 'Gender-Related Asylum Claims'' (2019) 37 *Netherlands Quarterly of Human Rights* 379; Sara Dehm and Jenni Millbank, 'Witchcraft Accusations as Gendered Persecution in Refugee Law', (2019) *Social & Legal Studies* 28(2), 202; Nora Honkala, 'She, of Course, Holds No Political Opinions: Gendered Political Opinion Ground in Women's Forced Marriage Asylum Claims', (2017) *Social & Legal Studies* 26(2); Heaven Crawley, '[En]gendering International Refugee Protection: Are We There Yet?' in Bruce Burson and David Cantor (eds), *Human Rights and the Refugee Definition: Comparative Legal Practice and Theory* (Brill Nijhoff 2016); Annemarie Middelburg and Alina Balta, 'Female Genital Mutilation/Cutting as a Ground for Asylum in Europe', (2016) 28 *International Journal of Refugee Law*, 416; Jane Freedman, *Gendering the International Asylum and Refugee Debate* (2nd edn, Palgrave Macmillan 2015).