



UNHCR

The UN Refugee Agency

United Nations High Commissioner for Refugees
Regional Office for Australia, New Zealand, Papua New Guinea and the South Pacific

NEWSLETTER



Papuan refugee child at Vanimo Airport, Papua New Guinea, 2004.
Photo: UNHCR/J. Siffointe

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Meet the new UNHCR Regional Representative

Mr. Neill Wright took up the post of UNHCR's Regional Representative for Australia, New Zealand and the South Pacific on 01 October 2004, after his reassignment from being the UNHCR Representative in Sri Lanka.

Mr. WRIGHT joined UNHCR in Bosnia in the early 1990s after a 20 year career with the British army where he served in postings to Germany, Northern Ireland, Norway, Turkey, Belgium, Cyprus, the Netherlands and Hong Kong.

He was based in Sarajevo and Zagreb during the war years of the Bosnian emergency. He also worked in the Great Lakes Region of Africa in 1994 and 1995, in Georgia/Abkhazia in 1995, and extensively throughout the Balkans. From 1998 to 2001, he was the Deputy Director for South-East Europe, which included responsibility during the challenging Kosovo crisis in 1999. From 2002-2004 he worked as UNHCR's Representative in Sri Lanka.

With the strong operational background he brings to his new role, Mr. Wright looks forward to working with governments in the region "to find pragmatic, humane and lasting solutions for the displaced." He emphasises the importance of positive dialogue, respect and trust between UNHCR and governments: "we need open and frank discussions of the protection challenges faced by states today, how UNHCR can best support states to face those challenges, and how refugee law needs to be developed," he said.

"The outcome of the Global Consultations a few years ago was a reconfirmation of states' commitment to the 1951 Convention and its validity today. But at the same time, while UNHCR continues to encourage new signatories to the Convention, we must recognise that it doesn't cover every single protection challenge states face in today's world."

"We need to develop, for example, forms of complementary protection and practices that are more consistent with the world in which we live. When states determine that some persons are not in need of international protection, but the conditions in the country they fled are not conducive to safe return, some form of temporary legal status and protection is needed, that is not adequately provided for under the Convention. This is currently so for many Iraqis and some Afghans.

"Another group that needs more attention is the victims of trafficking. I feel people persecuted by non-state actors, even criminals, need to be afforded better international protection – not necessarily as asylum-seekers, but



Neill Wright at his desk, Regional Office.

perhaps in circumstances where they have forcibly been taken to another country, and cannot return to their own country. Debate on how to afford them protection is needed. I am keen to engage more with regard to the interaction between asylum and migration, including smuggling and trafficking, in UNHCR's discussions with states in this region.

"Practical solutions can also be a means to generate new policies.

"I'm looking forward to advancing regional discussions on new initiatives like Convention Plus, and to seeking multilateral agreements to address specific regional issues.

"We need to find a better balance between the valid security interests of states and individual rights. So whether the issue is asylum, detention, *refoulement*, interception at sea, or trafficking, we need open discussion that takes account of the security and the rights based perspectives, in order to find the right balance," Mr Wright said.

Acknowledging the important role of NGOs and civil society, as well as public opinion, when it comes to refugee issues, Mr. Wright is looking forward to working with all of UNHCR's stakeholders in the region. His message, in a nutshell, is that "UNHCR is here to help."



Unloading luggage at Vanimo airport, PNG, 2004.

Photo: UNHCR/A. Rummery

Papuan refugees move to a new home

More land, better social services and the right to free movement are some of the benefits for 185 refugees from Indonesia's Papua province who were relocated within PNG from Vanimo to East Awin, Western Province.

THE complex relocation took place over a week from 29 September last year, and involved a plane trip from Vanimo to Kiunga where the refugees spent a brief time in a transfer shelter. From Kiunga they moved in groups of 40 by boat to Rampsite, about an hour upstream on the Fly River, and then by road to East Awin.

The group included 52 women, 56 men and 77 children. The youngest, only two months old, travelled in her mother's bilum shoulder bag.

These refugees were among 460 people who had arrived in the border town of Vanimo from Indonesia's Papua Province in December 2000. They were mainly from Wamena and Jayapura and were one of several groups of pro-independence refugees from the Indonesian province since the late 1960s. More than half of the original 460 refugees have since moved back across the border.

In Vanimo, the Catholic Diocese provided humanitarian assistance in the form of food and health care, but there was not enough land to enable the remaining 185 to become self-sustaining.

Preparations for the transfer began in earnest last May, following a breakthrough in negotiations with the traditional land owners regarding the allocation of land for the group to build houses and establish gardens. In PNG, the land tenure system is complex and land for cultivation is always in short supply.

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Papuan refugees cook sweet potato the traditional way at the Transmitter Camp, Vanimo, before the move to East Awini.

Photo: UNHCR/A. Rummery

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UNHCR's PNG Representative, Johann Siffointe, said the complex move was a significant achievement. He praised the PNG government for its commitment to achieving a negotiated outcome with the Vanimo group who were initially reluctant to move to the remote area of East Awini. "Their commitment to the negotiation process ensured the relocation remained a voluntary exercise," he said. Siffointe also thanked the PNG police force for their help with logistics of the move which greatly contributed to the smooth running of the operation.

"The move is an important first step in the integration of the refugees into

Papua New Guinea," Siffointe said. "In East Awini, land has been allocated for the settlement of refugees so they can grow vegetables and raise chickens and pigs, there are established schools and health clinics and after six months the refugees can apply to the PNG Government for Permissive Residency."

He explained, "Permissive Residency (PR) gives people the right to move anywhere in PNG and is a firmer legal footing on which to rebuild their lives."

Leaving the tarmac on the first of the flights out of Vanimo, group leader Mr. Konstan, on behalf of his community, thanked the government of Sandaun province and the national government for hosting their stay in Vanimo. He also expressed appreciation for the assistance

provided by the Catholic Diocese of Vanimo.

Mr. Konstan appealed to the Department of Border Affairs to provide security in East Awini and to grant them Permissive Residency. He vowed to return to Vanimo with the community if Permissive Residency was not granted down the track.

Saying goodbye to the refugees at Vanimo's Transmitter camp, Pastor Petrus of the PNG Bible Church said, "Only some of them are members of my congregation, but all of them are my friends. I am sad to see them go but I believe it was the right decision to go as there is more space in East Awini, even though it is very far."

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Rafael Abbis, UNHCR, briefs newly arrived refugees at Kiunga airport, PNG, 2004.

Photo: UNHCR/A. Rummery

From Page 4

In East Awin, UNHCR had prepared food, tarpaulins, nails, saws, spades, bush knives, lamps, jerry cans, and mosquito nets for the refugees. The group will receive rice, tinned fish, salt and cooking oil for one year while they

establish their gardens and build their houses.

In 1987, the PNG Government designated East Awin as the place for the relocation of refugees and asylum seekers and has leased 6,000 hectares from traditional landowners. There are 2,500 refugees from Indonesia's Papua

Province already settled there, including 1,200 children who were born in East Awin. Most of the refugees already settled in East Awin have already received Permissive Residency permits, renewed every three years. Health and education facilities are run by the Catholic Diocese of Daru/Kiunga.

A big welcome for refugees in Kiunga

MYRIAM KAIVARA, a nurse with Callan Services, Kiunga, was just one of the education and health care workers who came out to welcome the newly arrived refugees at the Kiunga transfer shelter. She brought with her books, puzzles, skipping ropes and balls and quickly had a ready audience of about 17 young children gathered around her.

“As the children were on holidays, there was not much to do at the clinic and so I decided to join the sisters and help make the children feel at home. When we played ball and the children were laughing, I was filled with joy,” she said.

Callan services provide health and education services to people with disabilities in the Kiunga diocese area.

Its clients include refugee children from the East Awin settlements.



Myriam Kaivara, Callan Services, reads the young refugees a story at the transfer shelter in Kiunga, PNG, 2004. Photo: UNHCR/A. Rummery



Nurses board the boat in Kiunga for Rampsite, PNG, 2004. Photo: UNHCR/J. Siffointe



Sarah with four of her children on the steps of her former clinic at the Transmitter Camp in Vanimo, PNG, 2004. Photo: UNHCR/A. Rummary

Former refugee runs health clinic for recent arrivals

SARAH NOROTOUW is a registered nurse and former refugee who was employed by the Catholic Diocese of Vanimo to run the community health clinic at the Transmitter Camp.

Fluent in Bahasa, English and Tok Pisin (or pidgin), Sarah was an indispensable help to UNHCR as an interpreter throughout the last few years.

Sarah fled the Papua Province of Indonesia in 1968 when she was three years old with her parents, her older brother (then 5 years old) and younger brother (just 3 months old). Her father was a former policeman in the Dutch police who became politically active in the West Papuan independence movement in the late 1960s, running foul of the then new Indonesian authorities.

The family walked into the jungle one night and stayed in the bush for almost a year moving from place to place until, due to the lack of shelter and poor food, the family became sick. "Malaria set in and we were getting pale," Sarah explained. And so towards the end of 1969, the family walked to the Yako refugee camp on the PNG side of the border where they stayed until 1971 when they were airlifted to Manus Island.

It was at the refugee camp on Manus Island that Sarah first started going to primary school, and was taught English by Australian teachers. In 1973, Sarah's father gained Permissive Residency and moved to the Eastern Highlands province and later to Lai, PNG's second largest city, where Sarah continued her schooling. Even though her family spoke English and pidgin once in PNG, Sarah kept practising Bahasa as she thought

she might just need it one day if they were able to return home.

After school, Sarah studied nursing and has worked in a range of hospitals and clinics run by government and churches since graduating. In 2000, she moved with her family to Vanimo and got a job with the Catholic Diocese in January 2001 to care for the newly arrived Bahasa speaking refugees.

Sarah's first clinic at the Transmitter Camp was in a tent. "When the refugees first arrived they had diarrhoea, dysentery and malaria. In early February 2001, they moved into the camp and started their gardens and grew vegetables. The mission gave them rice and tinned fish, and today they are healthy," she explained.

The relocation of the group has coincided with the birth of Sarah's fifth child – a boy named Isaac – and she will stay at home for a while before returning to the workforce.

Sarah has really loved her job helping the Papuan refugees who she sees as 'her people': "They don't speak pidgin, so I can also help them by translating," she said.

The studious one in her family, Sarah considers herself lucky to be well educated and able to get good jobs. She convinces her own children (Nicholas 12, Bonny 9, Henrich 5, Patricia 3, and the newborn Isaac) that they must study hard and hopes at least one of them will follow her own footsteps into nursing. Sarah's husband Robert, whom she married in 1992, is an air conditioning technician in Vanimo. He is also a former refugee from Papua Province and now a PNG citizen.

Thanks to the Bishop of Vanimo

Assistant High Commissioner Kamel Morjane has written to the Bishop of Vanimo Cesare Bonivento to thank him for his generous care of the group of refugees at the Transmitter Camp.

Since December 2000, until their recent relocation to East Awin, the Diocese of Vanimo has provided food and health care to the group and borne much of the financial burden for their upkeep.

When they arrived, the refugees slept in the diocese's class rooms until the Bishop gained permission from the provincial government for the refugees to clear land and build houses on the site of the Transmitter Camp. The Bishop gave the refugees tools and they built houses with off-cuts from a nearby saw mill and bush materials.

Diocese staff also provided invaluable help to UNHCR throughout the period, including translation and logistical support during the relocation operation last September. In his letter to the Bishop, Mr Morjane said "the valuable assistance provided by you and your staff during the recent relocation of this group to East Awin, Western Province was instrumental to the success of the operation." UNHCR is extremely grateful for their support.



Bishop Cesare Bonivento in Vanimo. Photo: Catholic Bishop Conference/L. Stephens



Young refugees help unload the mosquito nets at the transfer shelter in Kiunga, PNG, 2003. Photo: UNHCR/A. Rummary

Making the grade: PNG's DAFI scholars are well on the way to becoming teachers

*With the help of a German institute set up to commemorate Albert Einstein, four young Papuan refugees have just completed their first year as DAFI scholars at St Benedict's Teachers' College in Wewak, Papua New Guinea (PNG).**

WHEN they graduate, they'll return to the remote refugee settlement of East Awini to teach in the Catholic Agency Schools where they began their primary schooling.

The worldwide DAFI Scholarships Programme, funded by the German Government's Albert Einstein German Academic Refugee Fund, promotes self-reliance among refugees by helping them access a tertiary education in their country of asylum and boost their chances of future employment.

In PNG, the programme is about helping young refugees become qualified teachers so they can in turn teach the younger children in the remote refugee settlement in East Awini.

The scholarships are awarded on academic merit and cover tuition and boarding fees, books, clothing, medical and other living costs, as well as travel between East Awini and Wewak, on the north coast of PNG.

Sister Maureen Sexton of the Diocese of Daru-Kiunga, UNHCR's implementing partner for the scheme, reports after a recent visit to Wewak that all four students are doing well in their studies, with above average results.

The four scholars came to PNG as young children with their parents in the 1980s from the Papuan Province of Indonesia and attended school in various villages of East Awini before completing secondary school in the town of Kiunga, in Western Province. Their parents fled across the border from Indonesia in 1984 as part of a large wave of Papuan refugees which moved into PNG following a crackdown against pro-independence activities.

Janu Amuan was about four months old when his parents fled Papua Province, walking up and down mountains, across rivers and through thick jungles before settling a while in border area of Katawim on the Fly River, PNG. In 1992, following the death of his mother, he moved to the refugee settlement of East Awini and soon after started school at the West Montfort Primary, in Iowara village. Today, he is one of the four young Papuan DAFI scholars and has just finished his teaching studies. Janu's



Arik Cornelius, Junarius Petrus, Janu Amuan, and Vincent Celes, the four DAFI scholars at St Benedict's Teachers' College, Wewak, PNG.

Photo: Catholic Diocese of Daru-Kiunga/M. Sexton rsm.

favourite subject is social science, "because it deals with people — we look at contemporary issues and how people behave," he said.

When he first went to Wewak, Janu found it hard being away from his family for the first time. "It took a while to get used to boarding as I was a day student at my secondary school," he said. "It's also scary when we go into the town (Wewak) especially at night." "What I like is learning Tok Pisin, it is a fascinating language to learn, also meeting and making friends from all over the country."

Twenty-year old Juliarus Petrus's family comes from the same district in Papua Province as Janu's — Mindiptana. In 1984, his family walked in heavy rain through the jungle, and also settled along the border in Katawim, PNG, before moving to East Awini in 1991, with the help of UNHCR. Like Janu, Juliarus also began his schooling at West Montfort Primary.

Juliarus has found his first year of teacher's college very interesting: "we are gaining knowledge and experience all the time which will help us and give us skills to help our people especially in terms of teaching," he said. While Juliarus likes all his subjects, English is his favourite: "it helps me communicate well with other students in the class."

He is looking forward to educating his own people. "I will make sure there are more teachers," he said. For his community, Juliarus would like to help them understand the importance of sending their children to school. "I will encourage parents to be at the back of their children in education, because the future of our country is depending on the next generation."

East Awini was designated a settlement area for Papuan refugees by the PNG Government in 1987. About

half of the current population of 2,700 are children under 18 years of age but there is a shortage of qualified teachers willing to work in the remote location. When they graduate, the four DAFI scholars will return to teach in the Catholic Agency schools of East Awini and help the younger generation of refugees get a good education and boost their opportunities.

Sister Maureen said the scholarship programme can be promoted as an important incentive for a number of female students from East Awini now in years 10 and 11 at High School to complete their schooling and become future candidates for the scheme.

"With the first DAFI scholars now well on their way to becoming teachers, it's an important incentive for the girls to remain in school and finish year 12, when they might otherwise have dropped out," she said. Sister Maureen explained the small number of girls in year 12 is a common phenomenon in PNG, not just among refugee children. She said only five of the 30 students from Western Province studying at St Benedict's are women.

The DAFI scholarship sits alongside another project to encourage girls to stay in school. "Providing role models is an important incentive for young girls to stay at school — to show it's possible to forge ahead with an education and then find a job with meaning," Sister Maureen said.

In 2005, the DAFI programme will continue to support the three remaining scholars in their second year at teacher's college and four new scholarships will be offered — three to teaching students (including two young women), and one to an agricultural science student.

**Janu has just graduated, he completed second year. The other three have completed first year.*



UNHCR

The UN Refugee Agency

DISCUSSION PAPER

Gender-related persecution and refugees

For this discussion paper, UNHCR invited experts from universities and refugee review authorities in the region to discuss the issue of gender-related persecution and refugee status

determination, as well as the specific risks facing refugee women. We also provide a summary of UNHCR's own guidelines on gender-related persecution.

The importance of mainstreaming refugee claims by women

By Rodger Haines, QC

RODGER HAINES QC is a lecturer in Immigration and Refugee Law at the Faculty of Law, Auckland University, and Deputy Chairperson of the Refugee Status Appeals Authority (RSAA), New Zealand. He was commissioned by UNCHR to write a background paper on gender-related persecution for the second track expert roundtable discussion organised as part of the Global Consultations on International Protection. The views expressed are those of the author and do not represent a position of the RSAA New Zealand.

IT IS a sad irony that the Refugee Convention, a human rights treaty based on the principle of non-discrimination, is so commonly applied to exclude the legitimate claims to refugee status by women. Why this should be so is difficult to fathom. The first recital of the Preamble to the Refugee Convention emphasises the

principle that human beings shall enjoy fundamental rights and freedoms without discrimination.¹ Those rights can be denied to men, women and children in different ways and the impact of that denial will be determined by such factors as the person's sex, gender, age and state of health.² It is inescapable that the inquiry into refugee status must take into account the claimant's sex and issues of gender. Economic, political and social structures in many societies discriminate against women and it is common in some countries to find that women are excluded from primary education, condemning women to a life of illiteracy and economic deprivation. The feminisation of poverty has been identified as a major contributor to trafficking.³ Women's experiences of being persecuted are shaped by the power structures of the country of origin and by differences in such matters as race, class, sexuality, age, marital status, sexual history. Gender-

related persecution refers to the experiences of women who are persecuted **because** they are women, that is, because of their identity and status as women. Gender-specific persecution refers to the particular forms of persecution to which women are particularly vulnerable.

The refugee regime itself requires a highly specific examination of the particular characteristics and circumstances of the refugee claimant. In terms of Article 1A(2) it must be demonstrated that the individual has a well-founded fear of being persecuted and that that fear is for at least one of the five "reasons" enumerated in the definition. In more general terms, the inquiry is into who the individual is or what he or she believes and the reason why that person is unable or unwilling to avail him or herself of the protection of the country of origin. Both sex and gender are inherent aspects of all of these questions.

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Disclaimer: the views expressed in this discussion paper are those of the individual authors and do not, unless expressly stated, represent the views of UNHCR.

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In recent years seminal cases in common law jurisdictions have advanced a gender-sensitive approach to the Convention. They have recognised that the Convention affords protection from the risk of being persecuted at the hands of both state and non-state agents.⁴ They have accepted that in certain circumstances women can comprise a particular social group, sex being an immutable characteristic.⁵ They have established that the principle of non-discrimination must inform the interpretation of Article 1A(2) of the Convention.⁶ The case law has also established that whether an individual faces a risk of being persecuted requires the application of international human rights standards to assess the serious harm faced in the country of origin and to determine the State's ability and willingness to respond effectively to that risk.⁷ Persecution has been defined as the sustained or systemic violation of basic human rights demonstrative of a failure of state protection.⁸

These developments are largely the product of a concerted campaign over the past twenty years to persuade refugee decision-makers that the refugee definition is not to be interpreted through the prism of male experiences.

Yet notwithstanding the enormous strides made (on paper at least) and the existence in several countries of gender guidelines, a recent comparative analysis of gender-related persecution in national asylum legislation and practice in Europe leaves no room for complacency.⁹ This study, commissioned by the UNHCR, undertook a comparative analysis of approaches to gender-related persecution in national asylum legislation and practice across forty-two countries in Europe. In addition it undertook more in-depth research into policy and practice in four case-study countries (the UK, Sweden, Germany and Lithuania). The evidence collated during the course of this research indicates that there has been only limited progress in Europe towards ensuring gender-sensitive interpretation of the Convention and gender-sensitive asylum procedures. Where progress has been made, implementation of key recognitions is inconsistent. One telling example of this uneven progress is that authorities in less than half the countries surveyed have explicitly recognised that sexual violence can be a form of persecution. In the countries that do recognise this, individual decisions show that the application of this interpretation of persecution is inconsistent. Other key findings are:

- Less than half of the countries (41.5%) have recognised sexual violence as a

- possible form of persecution, either in law, policy or case law;
 - Just over half of the countries (56%) have recognised that in certain cases, discrimination can amount to persecution, either in law, policy or case law;
 - Refugee status has been granted in only a limited number of cases involving forced prostitution or sexual exploitation;
 - Over a third of countries do not recognise persecution by non-State agents as falling within the definition of a refugee under the Convention;
 - Although a quarter of countries have recognised that women's political activities may take a different form to men's, three quarters do not;
 - Just over a third of countries (39%) have recognised that persecution experienced or feared as a result of the failure to conform to religious mores may constitute a basis for a successful Convention refugee claim;
 - Around a half (51%) of the countries surveyed recognise the possibility of imputed Convention ground;
 - Only four countries out of the 41 countries surveyed have guidance on how to define a particular social group, either in law, policy, or case law. Just over a third of all countries have recognised women or particular groups of women as members of a Particular Social Group under the Convention;
 - Around 40% of countries provide automatic and generally consistent access to procedures to all adults, including women who arrive with their husband or other male relative.
- The authors of the study note that the treatment of gender-related persecution in national asylum legislation and practice in Europe cannot be seen

outside the context of broader shifts in the attitudes and policies in relation to asylum-seeking across Europe which has resulted in the tightening of access to procedures for refugee status determination. There is some evidence that because the experiences associated with gender-related persecution are already marginalised within the dominant interpretation of the Refugee Convention, these broader changes have a disproportionate impact on those seeking asylum on this basis. Although emerging case law on gender-related persecution is encouraging in some cases, first instance decision-making remains significantly less encouraging and is not necessarily consistent with this trend. There is evidence that some precedent setting decisions are still far from being systematically followed. It is clear that there is a long way to go in ensuring that procedures for refugee status determination are sensitive to the specific experiences and needs associated with gender-related persecution. This is particularly apparent in relation to the dominant and very masculine interpretation of the key elements of the Convention.

There are some very simple and first steps that all countries can embark upon. These include accepting basic procedural principles such as interviewing women separately from spouses and male relatives and encouraging them to make a claim in their own right where appropriate, and ensuring that all officials in the refugee determination system are properly trained to recognise the role of gender in shaping the refugee experience. These same points have recently been made in the Australian context as well.¹⁰

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Photo: UNHCR/H. Caux

In both Australia and New Zealand the foundations have been laid for a dynamic gender-sensitive interpretation of the Convention. But Australian decision-makers and courts may no longer be free to interpret the Convention as a “living instrument.”¹¹ On one view ss 91R and 91S of the Migration Act 1958 (Cth) potentially constrain, to a substantial degree, the meaning to be given (in Australia) to “being persecuted” and “membership of a particular social group.” In addition an impermissibly high standard of causation is imposed by s 91R(1)(a). These impediments to a dynamic and purposive interpretation of the Convention do not apply in New Zealand where, free of statutory interference, the Refugee Status Appeals Authority has adopted a “contributing cause” standard of causation¹² and has also assessed the predicament of being persecuted against international human rights norms.¹³ The difference the human rights approach makes to voluntary but protected activity was highlighted very recently when the Authority in *Refugee Appeal No. 74665/03* declined to follow the High Court of Australia in *Appellant S395/2002*.¹⁴

For too long women’s experiences have been seen as problematical, lying beyond the “true” scope of the Refugee Convention and requiring special interpretive “rules” or guidelines. This view is fundamentally misconceived. On accepted principles of treaty interpretation, sex and gender have always been at the heart of the refugee definition. Difficulties arise only because of misinformed decision-making. The refugee definition requires the adoption of an integrative perspective of human rights generally and this includes women’s rights. By interpreting forms of human rights violations against women within mainstream human rights norms it is possible to avoid marginalising women’s rights in refugee law.¹⁵

1 *The recital reads: Considering that the Charter of the United Nations and the Universal Declaration of Human Rights approved on 10 December 1948 by the General Assembly have affirmed the principle that human beings shall enjoy fundamental rights and freedoms without discrimination. On accepted principles of treaty interpretation this preambular statement is an integral part of the text of the Convention and must be taken into account if the Convention is to be interpreted in good faith in accordance with the ordinary meaning to be given to its terms in their context and in the light of the object and purpose of the Convention. These principles of treaty interpretation as mandated by customary international law are now codified in Article 31 of the Vienna Convention on the Law of Treaties, 1969.*

2 *Gender refers to the relationship between women and men based on socially or culturally constructed and defined identities, status, roles and responsibilities that are assigned to one sex or another, while sex is a biological determination. Gender is not static or innate but acquires socially and culturally constructed meaning over time: UNHCR Guidelines on International Protection: 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, para 3.*

3 *Jenna Shearer Demir, “The Trafficking of Women for Sexual Exploitation: A Gender-Based and Well-Founded Fear of Persecution?” UNHCR New Issues in Refugee Research, Working Paper No. 80 (March 2003).*

4 *Canada (Attorney General) v Ward [1993] 2 SCR 689 (SC:Can); R v Immigration Appeal Tribunal; Ex parte*

Shah [1999] 2 AC 629 (HL) and Horvath v Secretary of State for the Home Department [2001] 1 AC 489 (HL).

5 *R v Immigration Appeal Tribunal; Ex parte Shah [1999] 2 AC 629 (HL); Minister for Immigration and Multicultural Affairs v Khawar (2002) 210 CLR 1 (HCA); Refugee Appeal No. 71427/99 [2000] NZAR 545; [2000] INLR 608 (NZRSAA).*

6 *Canada (Attorney General) v Ward [1993] 2 SCR 689 (SC:Can); R v Immigration Appeal Tribunal; Ex parte Shah [1999] 2 AC 629 (HL) and Refugee Appeal No. 71427/99 [2000] NZAR 545; [2000] INLR 608 (NZRSAA).*

7 *Canada (Attorney General) v Ward [1993] 2 SCR 689 (SC:Can); R v Immigration Appeal Tribunal; Ex parte Shah [1999] 2 AC 629 (HL); Minister for Immigration and Multicultural Affairs v Khawar (2002) 210 CLR 1 (HCA) and Refugee Appeal No. 71427/99 [2000] NZAR 545; [2000] INLR 608 (NZRSAA).*

8 *Canada (Attorney General) v Ward [1993] 2 SCR 689 (SC:Can); R v Immigration Appeal Tribunal; Ex parte Shah [1999] 2 AC 629 (HL); Minister for Immigration and Multicultural Affairs v Respondents S152/2003 (2004) 205 ALR 487 (HCA) and Refugee Appeal No. 71427/99 [2000] NZAR 545; [2000] INLR 608 (NZRSAA).*

9 *Heaven Crawley & Trine Lester, “Comparative Analysis of Gender-Related Persecution in National Asylum Legislation and Practice in Europe” (UNHCR, Evaluation and Policy Analysis Unit, EPAU/2004/05, May 2004) <www.unhcr.ch>.*

10 *Leanne McKay, “Women Asylum Seekers in Australia: Discrimination and the Migration Legislation Amendment Act [No. 6] 2001” (Cth) (2003) 4 Melbourne Journal of International Law 439.*

11 *Sept v Secretary of State for the Home Department [2003] 1 WLR 856; [2003] 3 All ER 304 (HL).*

12 *Refugee Appeal No. 72635/01 [2003] INLR 629 at para [173] (NZRSAA) and the Michigan Guidelines on Nexus to a Convention Ground (2002) 23 Mich. J. Int’l L. 210.*

13 *Refugee Appeal No. 71427/99 [2000] NZAR 545; [2000] INLR 608; Refugee Appeal No. 74665/03 (7 July 2004) (NZRSAA).*

14 *Refugee Appeal No. 74665/03 (7 July 2004); Appellant S395/2002 v Minister for Immigration and Multicultural Affairs (2003) 203 ALR 112 (HCA).*

15 *See generally Deborah E Anker, “Refugee Law, Gender, and the Human Rights Paradigm” (2002) 15 Harvard Human Rights Journal 133.*



Photo: UNHCR/C. Schwetz

Gender persecution – developments in the Australian jurisprudence

By Ms Sobet Haddad

Sobet Haddad is the Principal Legal Officer, Refugee Review Tribunal (RRT), Australia. This paper is an interpretation by Ms Haddad and does not represent a position by the RRT or UNHCR on these issues.

THIS paper provides a brief overview of the developments in Australian law on gender-related persecution. Despite there being a substantial body of domestic refugee jurisprudence, there has been comparatively limited judicial consideration of gender-related issues. Those areas that have received attention have been in connection with consideration of the concept of ‘particular social group’, principally as it relates to women or women with specific attributes, and the relevance of the state, or its agents in circumstances of what is sometimes categorised as ‘private’ harm.

Gender related persecution has been described as typically encompassing acts of sexual violence, domestic violence, coerced family planning, female circumcision, punishment for transgression of social mores, and discrimination against homosexuals.¹ Although it is acknowledged that gender based claims may be brought by women and men alike, they most typically relate to women.² With the exception of claims relating to homosexuality, which may be as categorised as sex-based rather than gender based (and as such will not be discussed in this paper), this is reflected in the Australian experience where gender based claims are more readily identified as relating to women claimants.

In the experience of the Australian Refugee Review Tribunal, gender based persecution issues primarily relate to claims of sexual assault or domestic violence, although these issues arise for consideration in less than 4 and 2% of cases respectively.³ Claims of forced female circumcision, transgression of social mores, forced sterilisation or coerced family planning are even less common, each occurring in less than 1% of cases.

Australian jurisprudence

IN AUSTRALIAN jurisprudence, there is little debate as to the seriousness of the acts typically associated with gender based claims. That rape, genital mutilation, or domestic violence meet the requisite level of harm, for the purpose of s.91R of the Migration Act

1958, or the Australian common law interpretation of Article 1A(2) of the 1951 Convention relating to the Status of Refugees and the 1967 Protocol, is generally accepted without dispute, and as such has given little cause for consideration by Australian Courts. The debate has focussed instead on what, if any, nexus there is to the Convention. This in turn has concentrated attention on the question of whether women, or women with certain attributes in an individual society can be considered a particular social group for the purpose of the Article 1A(2) definition and the role of the state in defining the persecution and the nexus.

Particular social group

GENDER based groups have been recognised by Australian courts as capable of constituting a particular social group for the purposes of the Convention.⁴ Courts have however, been careful to qualify such recognition as being in the context of the available evidence in the individual case. Courts have cautioned that conclusions in other cases that might appear analogous or similar do not dictate the conclusion in another case, nor alter the position that it is for the decision maker determining whether a claimant is a person to whom Australia has protection obligations to decide whether a postulated group exists.⁵

Whilst it has been questioned as to whether all women in an individual society may form a particular social group, given the size and diversity of such a group in society,⁶ it is now more readily accepted that such a group may fall within the definition of particular social group as understood in Australian law. A majority of the Australian High Court in *MIMA v Khawar & Ors* (2002) 210 CLR 1 considered variously that it was open on the evidence before the decision maker to conclude that groups such as “women in Pakistan”,⁷ or “married women living in a household which did not include a male blood relation to whom the woman might look for protection against violence by the members of the household”⁸ constituted a particular social group. Chief Justice Gleeson in that same case noted that size of the group alone did not stand in the way of concluding a particular social group existed and, whilst cohesiveness may assist in defining the group, it was not essential.⁹ Taking a broad view of the issue, his Honour opined that women in any society were a distinct and recognisable group; and their distinctive attributes and

characteristics existed independently of the manner in which they were treated, either by males or by governments. It was neither the conduct of those who perpetrated violence against them, or of those who withheld the protection of the law from such victims of violence, which identified women as a group.¹⁰ Although *McHugh and Gummow JJ* in *Khawar* made no express comment on the broad proposition of women in a defined society forming a particular social group, they nevertheless observed that gender based groups reflected the operation of cultural, social, religious and legal factors bearing upon the position of women in the particular society and upon their particular situation in family or other domestic relationships.¹¹

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Photo: UNHCR/C. Schwetz

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The acceptance of the possibility of women, or women in identifiable situations or with certain attributes as being capable of amounting to a particular social group has not resulted in sweeping findings that such groups exist in all cases where it is postulated, nor has it meant that consideration of gender related persecution by decision makers has been limited to consideration of the Convention ground of membership of a particular social group. Cases of sexual assault in particular are not uncommonly determined in the context of race, religion or political opinion.¹² However, given the emphasis on the need to consider the individual nature of case, and the variety of circumstances in which claims of gender-related persecution may occur, there is limited impetus for the development of gender specific law in Australian refugee jurisprudence.

Causal link

LEAVING aside the issue of gender and particular social group, most analysis of gender-related claims in the Australian jurisprudential context have been within the parameter of causal nexus and the role of state in providing protection against harm arising from personal relationships.

It is now well established in Australia refugee law jurisprudence that a discriminatory response by the state, for a Convention reason, will provide the necessary basis for according refugee status where the harm suffered from non state actors is otherwise considered to be personally motivated. The leading Australian case of *Khawar* confirms that claims for protection made on the basis of domestic violence, where the harm suffered is not considered to be directly Convention related, may nevertheless satisfy the Article 1A(2) definition.

Ms *Khawar*, a Pakistani citizen claimed that she and her children were victims of serious and prolonged domestic violence from her husband and members of his family. She claimed that the police refused to enforce the law against such violence and that such refusal was part of systemic discrimination against women by the state. The Refugee Review Tribunal accepted the abuse had occurred but concluded that the harm from the claimant's husband and his family was not Convention related. It did not consider the allegations of police inaction, nor the position of women more generally in Pakistan.

Whilst a majority of the High Court took no issue with the decision maker's conclusion that the acts of violence perpetrated by the claimant's husband were personal in nature, it concluded that the authorities' toleration and

condonation of the violence, for a Convention reason, could establish a claim under Art 1A(2). In the view of McHugh and Gummow JJ, the persecution lay in the discriminatory activity of the state in not responding to the violence of non state actors, the harm being related to but constituted by the actual violence.¹³ This differs somewhat from Gleeson CJ's view that the persecution is the combined effect of the conduct of the private individual and the state or its agents,¹⁴ and Kirby J who preferred the formulation "persecution = serious harm + failure of state protection",¹⁵ with both judges considering the necessary nexus between the Convention reason and the persecution could be provided by either the serious harm limb or the failure of state protection limb.

In *Khawar*'s case Gleeson CJ cautioned that an Australian court or tribunal would need to be well-informed about the relevant facts and circumstances, including cultural conditions, before reaching a conclusion that what occurs in another country amounts to persecution by reason of the attitude of the authorities to the behaviour of private individuals. Nevertheless, if, after due care, such a conclusion was reached, then there was no reason, in his Honour's view for hesitating to give effect to it.¹⁶

The emphasis in *Khawar* on the role of the state in establishing refugee status in situations that may otherwise be categorised as private or personal harm, has not meant that harm or violence within a personal relationship cannot be ascribed directly to a Convention reason.¹⁷ *Khawar* has, however, resulted in a broader recognition of the circumstances in which gender based persecution, such as domestic violence may lead to recognition of refugee status in the Australian refugee determination process.

1 UNHCR, *Guidelines on International Protection: 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, paragraph 3. 2 *id.*

3 Based on review of RRT decisions database 1993 – 2004, including unpublished, as well as published decisions. Note these statistics cannot be taken as reflective of the Australian refugee determination experience as a whole as they do not include those cases involving gender based issues that may have been accepted at the primary determination stage by the Department of Immigration and Multicultural and Indigenous Affairs (DIMIA).

4 "Young Somali women", "single women in India", "married women in Tanzania", "women in Indonesia"

"Nepali women without protection", have been accepted by Australian Courts as being open on the particular evidence to formulation, or consideration as a particular social group: see *MIMA v Cali* [2000] FCA 1026, *Thalary v MIEA* (1997) 72 FCR 437; *MIMA v Ndege* (2000) 59 ALD 758; *SZAIK v MIMIA* [2004] FCA 104, *SZAIK v MIMIA* [2004] FMCA 407.

5 *MIMA v Ndege* (2000) 59 ALD 758, *Kaur v MIMA* [2000] FCA 1401.

6 *MIMA v Khawar & Ors* (2002) 210 CLR 1, per Callinan J at [153]-[154]. His Honour delivered the dissenting judgment in the case.

7 *MIMA v Khawar & Ors* (2002) 210 CLR 1, per Gleeson CJ at [32]

8 *ibid*, per McHugh and Gummow JJ, at [81]

9 *ibid*, at [32]

10 *ibid* at [35].

11 *ibid*, at [81].

12 See for example claims for protection from Indonesia nationals of Chinese ethnicity / Christian religion following the riots in Indonesia in 1998. eg RRT decision N99/30600, or those from Fijian nationals arising from the coup in 2000 – eg, RRT decision N01/37554

13 *MIMA v Khawar* (2002) 210 CLR 1 at [87].

14 *ibid* at [30].

15 *ibid* at [118], following Lord Hoffman in *Immigration Appeals Tribunal; Ex p Shah* [1999] 2 AC 629 at 653, and Lord Clyde in *Horvath v Secretary of State for the Home Department* [2001] 1 C 489 at 515-516.

16 *ibid* per Gleeson CJ at [26].

17 See for example, as applied in RRT decision V02/01452, where the Tribunal concluded that the domestic violence suffered by the applicant at the hands of her husband was for reason of her membership of a particular social group, 'women in PNG whom men regard as their wives'.



Photo: UNHCR/N. Behring

Summary of UNHCR guidelines on gender related persecution

UNHCR published guidelines, in May 2002, on gender-related persecution within the context of Article 1A(2) of the Refugee Convention relating to the status of refugees. The full guidelines are available at www.unhcr.ch (search for 'gender persecution') and a summary is provided here.

A: Background:

IT HAS been widely accepted that gender can have an impact on the type of persecution and the reasons behind the treatment, and properly interpreted, the refugee definition therefore covers gender-related claims. As such, there is no need to add an additional ground to the 1951 Convention Definition.

In refugee status determination procedures, all relevant circumstances of the case must be taken into consideration, including personality, background, personal experiences, and country of origin information. Generalisations as to gender are unhelpful and tend to lead to critical differences, which can often be relevant, being overlooked.

Discussed below are the elements of the refugee definition requiring a gender sensitive interpretation.

B: Well founded fear:

WHAT amounts to well-founded fear will depend on the circumstances in the case. Males and females may suffer the same forms of harm, but may also be subjected to persecution specific to their sex. It has been widely accepted in international law that acts such as sexual violence will amount to persecution. In this respect, international law can assist decision-makers to determine the persecutory nature of a particular act.

Whether a law is persecutory in and of itself has proven to be material in determining some gender-related claims, particularly where the law has traditional or cultural origins that are not necessarily in line with traditional or cultural norms. However, the claimant must always prove that they have a well-founded fear of persecution as a result of that law.

Even though a State may have a prohibited persecutory practice, it may not be able to stop the practice effectively, or may continue to condone it. In this case, the practice would still amount to persecution. That a law has been enacted to prohibit the practice will not be enough to render a claim for refugee status invalid.

Where the penalty for breach of a policy or law is disproportionate and has

a gender component, it would amount to persecution. The circumstances of punishment cannot be disproportionate to the objective of the law, even if the law has general applicability.

Even where laws or policies have justifiable objectives, if they are implemented in a manner leading to substantial prejudice to persons concerned, they might be persecutory.

Discrimination amounting to persecution:

It is generally agreed that 'mere' discrimination may not amount to persecution in and of itself, but a pattern of discrimination might on cumulative grounds amount to persecution (for example, if the consequences of the discrimination were substantially prejudicial in nature).

If the State concerned does not protect from serious abuse as a matter of policy or practice (i.e. discriminates in not extending protection against certain types of harm), this could amount to persecution. Domestic violence, for example, could be analysed in this context.

Persecution on account of one's sexual orientation:

A claimant's sexual orientation may be relevant where the persecution claimed was on account of his or her sexuality. Where homosexuality is illegal in a particular society, the imposition of severe criminal penalties could amount to persecution. Even if the practice is not illegal, a valid claim could still be established if the State is unable to effectively protect the claimant from persecution on the basis of his or her sexuality.

Trafficking for the purposes of forced prostitution or sexual exploitation as a form of persecution:

The forcible or deceptive recruitment of women or minors for the purpose of forced prostitution is a form of gender-related violence, and women can continue to face serious repercussions after escape, such as reprisals from trafficking rings, and severe discrimination. In individual cases, being trafficked for the purpose of forced sexual exploitation could therefore be a basis for a refugee claim where the State has been unwilling or unable to provide protection against such harm.

Agents of persecution:

The refugee definition allows recognition of both State and non-State actors as perpetrators of persecution. Acts committed by the local populace or individuals can amount to persecution if they are knowingly tolerated by the

authorities or the authorities refuse or unable to offer effective protection.

C: The causal link ('for reasons of'):

THE well-founded fear of persecution must be related to one or more of the Convention grounds – in other words, must be for reasons of race, religion, nationality, membership of a particular social ground, or political opinion (though this reason does not have to be the dominant cause). It depends on jurisdiction as to whether the causal link must be explicitly established, or whether it is part of the refugee definition as a whole. In many gender-related claims, the difficulty in determination may not be the applicable ground as much as the causal link – that well founded fear of persecution was for reasons of that ground.

If there is a risk of persecution at the hands of a non-State actor for a Convention reason, the causal link is established, even if the absence of State protection is not Convention related. Alternatively, where there is a risk of persecution by a non-State actor that is not for a Convention reason, but the failure by the State to offer protection is for a Convention reason, the causal link is also established.

D: Convention grounds:

A GENDER sensitive interpretation should be given to each Convention ground to determine whether a claim has fulfilled the criteria of the refugee definition. In many cases a claimant may face persecution for a Convention ground which has been attributed to them.

Further, persecution in gender-related claims may be for one or more of the Convention grounds, and a claimant is not required to identify accurately the reason why he or she has a well-founded fear of persecution.

Race:

Persecution for reasons of race may be expressed in different ways against men and women – for example, through the killing or incarceration of men, and through sexual violence towards women as a means of control of reproduction.

Religion:

A woman may have a well-founded fear of persecution for reasons of religion where she does not fulfil the role assigned to her by religion, or refuses to practice a prescribed religion and is punished as a consequence.

There is some overlap between grounds of religion and political opinion in gender-related claims, particularly in

the realm of imputed political opinion. For example, in certain societies, a role may be ascribed to women by the official religion and the authorities may perceive failure to conform to this role as a failure to hold this belief. At the same time, the failure to conform could be seen as holding an unacceptable political opinion, particularly where there is little separation between religious and State institutions.

Nationality:

This term does not refer to ‘citizenship’. It may occasionally overlap with ‘race’. Although persecution on the grounds of nationality is not specific to men or women, it can take a gender-specific form.

Membership of a particular social group:

Gender-related claims are often based on this ground, and a proper understanding of it is therefore of paramount importance. However, it is important that at the same time, other grounds are not overlooked due to the emphasis placed on this ground. Other Convention grounds should not be rendered superfluous due to the interpretation given to this ground.

A particular social group is a group of persons who share a common characteristic other than their risk of being persecuted, and the characteristic will often be one that is innate. It follows that sex can be within the ambit of this category. The size of the group has often been used as a basis for refusing to recognising women as a particular social group. However, given that other grounds are not constrained by size, this argument has no basis in fact or reason. It is further well accepted that it should be possible to identify the group independently of the persecution.

Political opinion:

Political opinion broadly incorporated any opinion on which the State, government or society may engage, and may include an opinion on gender roles. It would also include non-conformist behaviour which leads the persecutor to impute a political opinion on him or her.

In this sense, it is the context of the case that should determine its nature. A claim on this basis does, however, presuppose that the claimant hold a belief that it not tolerated by society and these opinions could come to the attention of the authorities, or be attributed to the claimant by the authorities. In these cases, the test of well-founded fear should be based on an assessment of the consequences that a claimant having certain dispositions would have to face if he or she returned.

Women are less likely to engage in high profile political activity than men, and are often involved in ‘low level’ political activities that reflect dominant gender roles. Women are also frequently attributed with the political opinions of their male relatives and persecuted on that account. This persecution may therefore be analysed in the context of imputed political opinion, as well as membership of a particular social group, the group being her family.

That a woman may not wish to engage in particular activities may also be taken by the persecutors as holding a contrary political opinion.

Procedural Issues:

Persons raising gender-related refugee claims require reassurance of the confidentiality of their claim and may be reluctant even then to identify the true extent of the persecution suffered.

Against this background, the following measure should be kept in mind to ensure proper consideration of gender-related claims:

- Women asylum seekers should be interviewed separately, and it should be explained to them that they may have a valid claim in their own right;
- Women should be given information on status determination in a language and manner they understand;
- Women should be interviewed and interpreted by women who are sensitive to cultural and religious matters;

- The interview room should encourage discussion and promote confidentiality;
- The interviewer should introduce herself and the interpreter and assure the claimant of confidentiality, but also explain that she is not a trauma counselor;
- The interviewer should remain neutral and objective during the interview but still be compassionate. The claimant should present their story with minimal interruption;
- The interviewer should ask both open-ended and specific questions which may help to reveal gender issues relevant to the claim;
- Second interviews should be arranged, particularly for claims relating to sexual violence, as this will help to establish trust and obtain all necessary information. Interviews should be stopped if the claimant becomes distressed.
- Where it is envisaged that the claimant has a gender-related claim, a relationship of trust and confidence needs to be developed;
- Relevant country of origin information should be collected;
- Emotion displayed during the recounting of experiences should not affect a woman’s credibility. In some cases, it might be appropriate to seek objective psychological or medical advice.
- Referral to counselling and other support services should be made available where necessary.

Evidentiary matter:

Documentary proof is not required in order for the authorities to recognise a refugee claim, but information on the practices in the country of origin may support a particular case. In relation to gender-related claims, however, this may not be readily available.

Methods of Implementation:

There have been two traditional approaches taken by States for a gender-sensitive application of refugee law. Some States have incorporated legal interpretive guidance within the legislation itself, which others have preferred to develop policy and guidelines for the decision-makers. UNHCR encourages States that have not already done so to ensure a gender sensitive application of refugee law and procedures.



Photo: UNHCR/H. Caux



Ensuring the Effective Protection of Refugee Women at Risk

By **Dr Eileen Pittaway**

Dr Eileen Pittaway is Director of the Centre for Refugee Research, University of New South Wales.

MANY refugee women experience multiple incidences of traumatic experience including sexual and gender based violence as persecution, during flight and in countries of first asylum. The impact of each event is compounded by ensuing incidents and despite the best effort of UNHCR and the NGO community, is often further compounded by lack of adequate protection, caused mainly by lack of resources. This creates unacceptable levels of risk and vulnerability to further trauma, exploitation, sexual abuse and even death.

Case Study – A Case of Extreme Risk

THIS report is based on research undertaken by researchers from the University of New South Wales, Sydney.

The case study below is drawn from the 100s of stories we have documented during the course of this project in Kenya and Thailand.

This is the case of a young orphaned woman (17) from the south of Sudan with a one year old baby, born of rape by perpetrators in Kakuma Refugee Camp. She is unable to support herself and the baby on the World Food Program food rations and has no income for other basic necessities such as soap and sanitary towels. She has been ostracized by the community because she is a single mother without family support. To obtain food her options are either: (a) selling sex in a dangerous and violent environment where often the men who use the desperate girls will beat them and not pay any money – “Sometimes the kinder men give us a few shillings” or (b) a so called “marriage” for “protection” to an older man who is likely to be violent and abandon her whenever she becomes pregnant again.

Detailing the Compounding Risk Factors

Incident 1

When she was 12, her village in the south of Sudan was bombed and her parents were killed. She saw them die. She then ran with her elder brother and neighbours over the mountains

into Kenya. On the way, the group was attacked by rebels. Her brother was shot and she thought he was dead .

She stayed with the body all night in fear, and in the morning she noticed signs of life. An unknown woman helped them and the brother recovered. They then resumed the journey and reached Kenya.

Incident 2

In Kenya, a man who had known her family took her to live with him and his wife (also refugees). She was included on their UNHCR ration card. Her brother was sent elsewhere so she lost her only remaining relative. She was forced to work as a servant for the family who took her in and she did not attend school. When she was 13, the man who had custody of her arranged a marriage for her with a man of 45, who would pay a dowry. She ran away from the family rather than be married to an older man. The foster father beat her badly before she ran away

Incident 3

She found her way to Nairobi and lived for a while with refugees in the slums. While she was there she was raped by a group of men and hospitalised. Her case again came to the attention of UNHCR who arranged for her to go to Kakuma and be fostered by a new family.

Incident 4

After about a year, the teenage sons of the foster family started to rape her at night. She complained to the mother, who called her a prostitute and put her out of the house. By that time she was pregnant by one of the three sons.

Incident 5

She was given shelter in the camp and her own ration card and lived with some other single women until the baby was born. Some of these women were forced to sell sex for food and basic necessities. They were constantly harassed by men and boys in the camp, and by the local Turkana men who knew where the single women were housed. Once the baby was born, an older man in the community offered to take her as his “wife” but she declined. He then starting harassing her, and she was afraid that he would abduct and rape her.

Incident 6

She was eventually put into protective custody but there was no resolution to her problem in the immediate future. The only solution offered was another relocation with other single women. She is very afraid to take this offer, as she knows that there is no guarantee of safety and that she has no means of generating any additional income to support herself and her child.

End Result

She is now in a situation where resettlement is probably the only durable solution. Resettlement will be extremely difficult for this young woman. Amazingly she is still extremely resilient and determined to build a life for herself and her child. She has fought to maintain her independence and not to accept “marriage” as a way out of her situation.

In order to address problems such as these, with the endorsement of UNHCR, the researchers are now working on a pilot project will commence in 2005. It will develop a model of risk assessment, risk reduction, and a coordinated risk management response to ensure effective protection is provided to vulnerable refugee women.

This project acknowledges that in many sites, including Kakuma and on the Thai Burma border, excellent work is underway at a local level to provide a co-ordinated response to some of the problems identified in the research to date. By strengthening partnerships between UNHCR, NGOs and the refugee communities, it is anticipated that the project will produce some new and effective strategies for addressing the protection needs of refugee women.

For further information contact Dr Eileen Pittaway, The Centre for Refugee Research, University of New South Wales, e.pittaway@unsw.edu.au

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15 Hunter Street,
Yarralumla ACT 2600

Tel: +61 2 6273 2733 Fax: +61 2 6273 6822

E-mail: aulca@unhcr.ch

Editors: Sylvana Whyte and Ariane Rummery

UNHCR's views on the concept of effective protection as it relates to Indonesia

'Effective Protection' update: In the last newsletter, we run a discussion paper on the principle of effective protection elsewhere. This update outlines UNHCR's views on the concept as it relates to Indonesia.

UNHCR Canberra has recently reviewed a decision of the Australian Refugee Review Tribunal on the application of the seven-day rule on the basis that "effective protection" was available in Indonesia.

In its finding, the Tribunal reasoned that the refugee could have sought protection from UNHCR in Jakarta, and is therefore only eligible for another TPV.

Quite apart from the consequences which are suffered by the refugee being granted only a TPV, the decision of the Tribunal is a significant one, given that this is the first time the Tribunal has declared that Indonesia offers effective protection on the assumption that the authorities do not refuse refugees/asylum seekers and that UNHCR's presence suffices to provide effective protection.

UNHCR considers that the absence of a threat of *refoulement* on its own is not sufficient to measure the effectiveness of the availability of protection. The speech by UNHCR's Director of International Protection to the recent session of the UNHCR's Executive Committee elaborates on this in greater detail. In setting out the minimum requirements of "effective protection", the Director emphasized that ascertaining the availability of protection should be informed by the rights set out in the 1951 Convention and the 1967 Protocol as well as other international human rights instruments. It was stated that effective protection is sufficient if, at a

minimum, the following is reliably guaranteed:

- there is no likelihood of persecution, of *refoulement* or of torture or other cruel and degrading treatment;
- there is no other real risk to the life of the person[s] concerned;
- there is a genuine prospect of an accessible durable solution in or from the asylum country, within a reasonable timeframe;
- pending a durable solution, stay is permitted under conditions which protect against arbitrary expulsion and deprivation of liberty and which provide for adequate and dignified means of subsistence;
- the unity and integrity of the family is ensured; and
- the specific protection needs of the affected persons, including those deriving from age and gender, are able to be identified and respected.

Based on the above stated indicators, the protection situation in Indonesia cannot be characterized as affording effective protection. Indonesia is not signatory to the 1951 Convention relating to the Status of Refugees nor to the 1967 Protocol; neither does it have any legislative framework for the protection of refugees. The country thus lacks a legal foundation for international protection of refugees based on which the minimum requirements as set out above could be reliably guaranteed.

Asylum seekers and refugees in Indonesia do not have lawful residence in the country, and are tolerated by the authorities, thus risking arbitrary detention by local law enforcement agencies, and even *refoulement* under the Immigration Law. Despite UNHCR's intervention, legal regularization of the status of asylum-seekers and refugees

with the authorities has so far been unsuccessful. There is no lawful access for these persons to the labour market and thus they are not able to work legally, which obviates any adequate and dignified means of existence. There is no possibility of exercising any civil, economic, social or cultural rights. Durable solutions are not guaranteed either, and there are considerable numbers of UNHCR recognized refugees who are rejected for resettlement, and who remain without any prospects of a durable solution. Furthermore, there are no options for family reunification, nor any systematic means, established by the State, of identifying specific protection needs of refugees, including those with special vulnerabilities, nor of addressing them.

The presence of UNHCR in a country cannot be equated with the provision of effective protection. International protection is afforded by States and not by an international organization. The protection activities to be carried out by UNHCR in exercising its mandate as elaborated in Art. 8 of its Statute, which are primarily promotional in nature, reflect that UNHCR does not itself afford protection. It may also be added that UNHCR in Indonesia has a limited presence, and does not have field offices outside the capital city, Jakarta, in a country that consists of many thousands of islands. Moreover, the facts reveal that the refugee in this case was not aware of the existence of UNHCR in Indonesia, and thus he could not have approached the office to seek assistance. This is a factor which should be taken into account in terms of the weight placed on asylum seekers having access to UNHCR in Indonesia.

2 December 2004

Sculpture by the Sea

Located along one of Australia's most beautiful coastal walks in Sydney, Sculpture By the Sea is a public art show that magnificently blends art with nature. Gai Mathers, a Sydney artist made her debut last October with "Freedom Detained", a sculpture about refugees in detention.

"Clouds to me represent absolute freedom and if contained in a cage would be as wrong as holding refugees in detention. This is the first large sculpture I have made and also the first making a statement, I hope it will intrigue people and lead them to ponder what its meaning is," she said.

This sculpture is available for exhibition, enquiries to tel/fax +61 2 9660 7422.



Artist Gai Mathers's, 'Freedom Detained,' Sculpture by the Sea, 2004. Photo: Clyde Yee, 2004

Australia for UNHCR's Chad Mission



Jane Turner with refugee kids at Farchana camp, Chad.

Photo: Australia for UNHCR/N. Steer

“Kath & Kim” star Jane Turner launched Australia for UNHCR’s Christmas Appeal for Sudanese refugees at NSW Parliament House on Tuesday 7 December.

A FEW weeks earlier, in her capacity as Special Representative for Australia for UNHCR, Jane travelled to Chad to see first hand the conditions of Sudanese refugees living in camps on the border. She was accompanied by Australia for UNHCR’s National Director Naomi Steer.

There are currently around 200,000 people in eastern Chad uprooted by the conflict in neighbouring Sudan’s Darfur region. Jane visited three of the 11 UNHCR camps that spread along the 600km Chad/Sudan border. Although Jane has lived in Bangladesh and seen extreme poverty she was still overwhelmed at the conditions in which UNHCR and its partners battle to provide humanitarian assistance to the refugees.

“Everything is so hard there. It is extremely hot. There are no roads or public transport. Providing water, fuel and food to the refugees in camps is a huge challenge,” Jane said.

“Children are the most vulnerable. Many are malnourished when they

arrive in the camps and then have to combat diseases such as dysentery and TB as well as malaria,” Jane said. Yet progress is being made. We visited the newest camp Treguine, where people are being moved from the much more overcrowded Breidjing camp. It has an adequate water supply from the bore sunk in the dry wadi that borders the camp. It has good sanitation with over 759 latrines scattered through the camp. And the Supplementary feeding program started in July to combat malnutrition is having a positive effect,” Jane said.

The major concern of UNHCR on the ground however was the possibility of a further large movement of people into the camps from neighbouring Sudan. “For UNHCR, the issue isn’t only logistical. UNHCR has to date only received half of the USD 114 million it needs for its operations in both Chad and Dafur. If many more people need help this will really strain UNHCR’s existing resources,” Jane said.

Launching a special christmas appeal on 7 December, Jane asked Australians to extend a helping hand to Sudanese refugees. Australia for UNHCR aims to provide funding for over 2000 tents and other emergency supplies urgently



Photo: Australia for UNHCR/N. Steer

needed for the refugees in Chad as well as the 1.9 million internally displaced people still in Sudan.

Donations to the UNHCR Chad/Dafur Appeal can be made by calling 1300 361 288 or online at www.australiaforunhcr.org.au

Scholarship offers new hope to TPV holders

"I had no idea. I was kind of going nowhere. There wasn't anyone I could talk to."

WHILE these words might be echoed by many teenagers mid-way through their last year at high school, Meriam Shabbar faced a future without the chance of going onto university.

As the holder of a Temporary Protection Visa (TPV), Meriam was considered an 'international student' and faced the prospect of full fees if she wanted a tertiary place. Nor could she access the full benefits and services offered to other refugees with permanent protection visas.

"There were times when I was wondering, 'what is the point of finishing year-twelve?'"

Meriam is an Iraqi refugee who arrived in Australia by boat in 2001. She spent two months in the Woomera detention centre before she was recognised as a refugee and given a TPV — a type of protection visa introduced in Australia in 1999 for refugees who arrive in an 'unauthorised way'.

Luckily for Meriam, near the end of 2003, she heard about a new scholarship program offered by Adelaide University to TPV holders to make a university education a realistic option. Today, she has just completed her first year of biotechnology and is one of two refugees to win a scholarship in 2004 worth up to \$20,000 a year per student.

One of the driving forces behind the TPV Access Scheme is the Executive Director of Student and Staff Services Ms. Susan MacIntosh, who sees the program as tapping into a valuable source of academic talent who could benefit from a tertiary education.

"We were seeing these students who were doing brilliantly at school and couldn't access a university education. It just seemed like a terrible crying waste," she said.

The scholarship covers all tuition, services and university fees and the University also helps with access to other services to deal with the transition into university life, such as an initial induction program, ongoing access to counsellors and personal mentoring.

A fund at Adelaide University has been established to cover other expenses associated with a university education which staff can contribute to via regular direct-debit payments. According to MacIntosh, staff and students are more than willing to contribute to helping Access Scheme students succeed. "It binds all of us. The university feels it relates to its core reason for being here, which is to offer educational opportunities to people in our community. It fits within our mission," she said.



Meriam Shabbar at the University of Adelaide.
Photo: University of Adelaide/B. Osborne

MacIntosh highlights the unique difficulties TPV holders face as university students. "They have other challenges. They have come from difficult backgrounds and so they need that support," she says. "Student life is very important to the university and the scheme gives them access to this important lifestyle."

For Meriam, the scholarship has opened up a new world of opportunity and, studying biotechnology, she is looking forward to paying back those who have put faith in her through contributions of money and time. "I am really into the pharmaceuticals research field. I like the idea of inventing new medicines because there are so many people suffering around the world and I would like to be able to help," she says. Meriam has so far overcome considerable challenges, like getting used to a new language and culture, but she doesn't intend to stop there: "It would be really great to come up with a medicine for cancer...really great," she said.

The University of Adelaide programme offers one scholarship in each of its five faculties in areas of study as diverse as medicine and commerce, through to the humanities and engineering for TPV holders who meet the academic standards. Further information is available from Adrienne Eccles on +61 8 8303 4001 or adrienne.eccles@adelaide.edu.au. For information on how you can offer assistance to the scheme, contact Director of Alumni, Community Relations and Development, Anne Gribbin on +61 8 8303 4275.

A number of other Australian universities offer scholarships or fee waivers to students holding TPVs through official schemes or on a case-by-case basis, including the University of New South Wales, Charles Sturt, Notre Dame, the University of Technology Sydney, and Curtin Universities, while the Royal Melbourne Institute of Technology (RMIT) offers them to holders of both TPV and Bridging Visas. For more information, contact the individual institutions.

Asia Pacific states meet to discuss durable solutions and migration trends

States from the Asia Pacific met in Fiji in November for the 9th plenary of the Inter-governmental Asia Pacific Consultations on refugees, displaced persons and migrants (APC).

THE MEETING, held in Nadi from 4-5 November, was attended by 43 people from 19 countries, IOM and UNHCR and was hosted by the Government of Fiji, Chair of the APC for 2004.

The theme of this year's plenary was Comprehensive Approaches to Durable Solutions and Migration Trends.

In his address to the meeting, UNHCR Regional Representative Neill Wright, urged states to develop refugee status determination (RSD) systems that were fair and efficient and offered UNHCR's help to train government officials in RSD and to work with APC governments to achieve durable solutions. He also urged states to address the root causes of displacement in countries of origin.

A panel discussion with China, Thailand and Vietnam (moderated by UNHCR) looked at building regional capacity for durable solutions. Discussion reflected the need for international cooperation between states and international organisations such as UNHCR and IOM, and the need to adhere to international norms. The desirability of commonality in refugee status systems across the region was also discussed. The point was made that states could choose to have refugee status determination procedures irrespective of whether they are signatories to the 1951 Refugee Convention and 1967 Protocol.

A vigorous discussion on durable solutions focused on voluntary repatriation and resettlement with members noting the importance supporting the integration of resettled refugees.

For the future, the meeting agreed to continue the theme of 'comprehensive approaches to durable solutions and migration trends' in 2005 and that practical activities would include: information sharing; building regional capacity for durable solutions (including RSD and resettlement); and migration and development.

The People's Republic of China will chair the APC in 2005.

New DVD to help Sudanese refugees settle in Australia

Newly arrived Sudanese refugees will be offered a novel "settling in" aide - - a DVD in their own language complete with access to a DVD player if necessary.

Last month, Regional Representative Mr Neill Wright launched a new kit developed by Melbourne's Northern Migrant Resource Centre to help newly arrived South Sudanese refugees, called *Settling in Australia*. The kit covers similarities and differences between Australia and South Sudan, including schooling, employment, housing and social life.

MRC Settlement Service Manager Sonia Vignjevic said Sudanese refugees come from one of the poorest parts of the world and often arrive in Australia

with inadequate clothes, no furniture or equipment, no language or job skills.

"Over the past two years, 3000 of these refugees have arrived in Victoria and they now make up 55 per cent of the number of our refugee program," she said.

The MRC has over 20 years experience helping refugees settle in Australia, and the kit was developed through intensive consultation with the local south Sudanese community living.

The visual information package shifts away from traditional settlement information tools that rely on reading documents in hard copy.

Mr Wright congratulated the NMRC on the kit, and said it was an example of the very high quality integration



Image from *Settling in Australia* kit, Northern Migrant Resource Centre, Melbourne.

services Australia provides to resettled refugees considered by UNHCR to be international best practice.

Further information on the kit can be found at www.mrcne.org.au

New Charter sets out refugee rights

The Refugee Council of Australia (RCoA) has launched a new Refugee Charter to remind us all of the human rights principles central to refugee issues.

IN RECOGNITION of the fact that the rights of refugees are often not properly understood by the media, the public or some community groups, the Charter distills the technical jargon of international law into 12 key principles. It draws from a variety of documents but especially the Universal Declaration of Human Rights (UDHR) and the Refugee Convention.

The Charter is intended to be used by refugee support groups, local councils and schools as an educational tool and a refresher on the fundamentals of refugee rights. The RCoA hopes it will be prominently displayed as a reminder of shared values by all those who work with refugees - including development agencies, settlement service providers, and advocacy groups.

Speaking at the Melbourne launch of the Charter on 25 October, RCoA's Executive Director Margaret Piper said the idea for the Charter grew out of the need for a set of common principles to inform and guide the work of the diverse refugee sector.

"The various human rights treaties and the associated protocols and conclusions form an obscure and sometimes impenetrable maze for the uninitiated," said Ms Piper.

She said the Charter distills the key principles from the various instruments into simple language, and when displayed in the workplace it can serve as a continual reminder to people of the purpose of their work with refugees.

The RCoA invites all those who work with refugees to discuss the Charter in the context of their work and if it applies to them to apply for a special copy in their name to proudly hang on their wall. "Staff can look up at it when searching for inspiration and strength," said Ms Piper.

A number of local councils have signed the Charter, a signal that they intend to commit to supporting the principals it upholds. Darebin City Council in Victoria, for example, adopted the Charter on 18 October following a visit to the Baxter Detention Centre. Council said it regards the Charter as an ongoing reminder of their commitment to addressing refugee issues in the city.

Further information is available at www.refugeecouncil.org.au



The RCoA is a non-governmental, non-profit peak organization, providing support for, and information on, refugees and humanitarian entrants in Australia. It represents over 180 non-governmental organizations and individuals working with, and for, refugees throughout the world.

The 55th session of the Executive Committee

UNHCR's Executive Committee (Excom), currently made up of 66 states, met for the 55th session over five days in Geneva last October to review and approve the agency's programmes and budgets, and advise on refugee protection matters.

IN HIS opening address to the meeting, U.N. High Commissioner for Refugees Ruud Lubbers said that international efforts to find lasting solutions for millions of uprooted people have brought steep declines in the numbers of refugees and asylum seekers, but the institution of asylum is still being eroded by fear, confusion and politicization in many parts of the world. He described the overall environment in which the agency must work today as "less friendly to refugees."

"In the past few years, the politicization of immigration, confusion between refugees and economic migrants, and fears of criminal and terrorist networks have combined to erode asylum legislation in many states," he said. "Paradoxically, this has taken place against a backdrop of declining number of refugees and asylum seekers.

The global number of refugees and others of concern to the UN refugee agency has fallen from 21.8 million when Lubbers first took office in January 2001, to 17.1million at the start of 2004 – an overall decline of nearly 22 percent. The number of people seeking asylum in industrialized countries has reached the lowest level in 17 years.

Refugee protection a necessity, not a policy choice

UNHCR's top refugee protection official, Erika Feller, also lamented the increasingly hostile environment to refugees and asylum seekers in her

report on protection concerns to the annual Excom meeting.

Feller, the Director of International Protection, said that "refugees are people, not statistics or global trends" and that their protection is "a humanitarian necessity, not a policy choice."

While appreciating the concerns of states about sorting out the confusing mix of persons who present themselves at frontiers as asylum seekers, Feller stressed that there must be a recognition that refugees are not classical migrants.

"There are considerable dangers in mixing up refugees and migrants as if they are one and the same," she said. "Although we certainly see the interlinkages, refugee protection involves a special set of rights and reciprocal duties on states that is in danger of being eroded when the debate on asylum is seen solely, or largely, in terms of illegal or legal migration. We need to guard against over-robust approaches to keep migrants from borders, without differentiating between the reasons which propel people to seek to come across. Migration concerns are skewing the approach to refugee protection, we fear."

UNHCR was particularly concerned at how global migration trends and international crime and terrorism have affected the readiness of states to receive refugees. When borders close to asylum seekers fleeing persecution or conflict, various reasons are usually given: the people were brought by smugglers; other states have a greater responsibility to receive them; the conflict is not a recognised one; state security takes precedence. But whatever the reason, Feller said, the right to seek asylum, the right to flee for your life and to protect your family, often take second place.

UNHCR supports efforts to combat international crime and terrorism, Feller said, adding that genuine refugees are themselves escaping persecution and violence, including terrorist acts. International refugee instruments should not be characterized as providing a safe haven for terrorists. On the contrary, Feller said, they specifically provide for their exclusion from refugee protection.

"The tendency in some countries towards criminalisation of asylum seekers and refugees is very worrying," she said. "While there may be persons in both categories associated with serious crime, this is no justification for the majority being damned by association with the few. Equating asylum with a safe haven for terrorists is not only legally wrong and unsupported by the facts, but it serves to vilify refugees in the public mind and promotes the singling out of persons of particular races or religions for discrimination and hate-based harassment."

Ms Feller's full speech can be found at www.unhcr.ch under Executive Committee.

New Excom Conclusions

THE following Excom Conclusions released on the 8 October can be downloaded at www.unhcr.ch under Executive Committee.

- Conclusion on International Cooperation and Burden and Responsibility Sharing in Mass Influx Situations.
Doc Symbol: No. 100 (LV) – 2004
- Conclusion on Legal Safety Issues in the Context of Voluntary Repatriation of Refugees
Doc Symbol: No. 101 (LV) – 2004
- General Conclusion on International Protection
Doc Symbol: No. 99 (LV) – 2004



Erika Feller, Head of UNHCR's Department of International Protection, speaks at the 55th meeting of UNHCR's Executive Committee, Palais des Nations, Geneva Switzerland.

Photo: UNHCR/S. Hopper

Kiwis pitch in to help new refugees

New Zealand's refugee resettlement agency, RMS Refugee Resettlement, has pioneered an innovative training programme which links community volunteers with newly arrived quota refugees for the first six months after their arrival in the country.

AFTER a six session training course, and successfully completing a placement interview, volunteers are placed in small teams (usually four people) then assigned to a family or individual arriving in their community. The volunteers work closely with RMS social workers and cross-cultural workers in their support of new arrivals.

Before the refugees arrive in their communities the volunteer teams prepare their new homes fitting them out with, for the most part, donated furniture and furnishings. They then help introduce them to the local community helping with a range of tasks ranging from explaining public transport and where to access English as a Second Language classes to preparing them for such Antipodean quirks as charity collectors knocking at the door asking for money!

Alex Abela is one of a small team of Auckland volunteers working with an Hazara family from Afghanistan who arrived in New Zealand early in 2004. He first met the family at the Mangere Refugee Reception Centre where quota refugees undergo a six week orientation course before moving to their new homes around the country.

"It was a really great experience for the soul. Only one of the Hassanis, a son, spoke any English but somehow we communicated very well. We talked, they offered me tea. From under her bed Amaneh pulled out all their worldly possessions, i.e., aluminium cups and plates and thermos flask. Then, from an old shoe box she pulled out some biscuits, and we all had tea. After tea, Moheb pulled out from under his bed a beautiful Afghan table cloth, made by Amaneh, and gave it to me as



One of the Refugee Migrant Services community volunteers Alex Abela working with refugees in New Zealand. *Photo: RMS*

a present of friendship. I was truly touched that day.

"Initially Housing New Zealand (the government agency which provides housing stock for quota refugees on arrival) had difficulties finding an appropriate place to house the family. Finally they found a 2.5 bedroom home to house the seven of them. It was difficult trying to fit in all the furniture we'd managed to collect but they promised us that they would give us a bigger house as soon as possible. That meant we had to shift all over again after two months, including re-enrolling all the kids in new schools, but that was fun.

"About two weeks after settling into their own house, I got a very urgent phone call telling me that the father had gone missing. He'd left home at about 6 am for a walk around the block but hadn't returned by 10 am. There was panic all round. We organised a search party, informed the police and hospitals, and searched on foot around the area. Two hours later, I finally heard that he'd

been found wandering miles away from home. Unable to read or speak English he'd simply lost his way.

"Eight months after their arrival the four kids are settled in at their respective primary, intermediate and high schools. They're all doing very well academically as well as on the sporting field. Their command of English has really blossomed, and they speak with a beautiful clear Kiwi/Afghan accent. The boys have managed to acquire good part-time jobs too. The family's also been fortunate enough to find a nearby doctor who's worked in Afghanistan and that's made a big difference."

Alex says volunteering with RMS has been a fascinating experience through which he's learnt a great deal as well as making new friends.

For more information about RMS' volunteer programme email RMS' National Training Coordinator Fiona McKinney at Fiona.mckinney@paradise.net.nz

The Regional Office now has its own website at www.unhcr.org.au



Successful Afghan businessman helps new arrivals settle in

While any resettlement assistance given to refugees is valuable, the advice of someone who has had to overcome the same difficulties is worth its weight in gold.

SHAMIM FAHIZ is such an example to newly arrived Afghan refugees in Canberra. While being sponsored by his brother to migrate to Australia, Shamim arrived not speaking a word of English, without a job and facing the challenges of a new culture and society.

Having escaped Afghanistan in 1984, Shamim spent more than 18 months in Pakistan as a refugee before being accepted to enter Australia.

In Afghanistan, Shamim studied architecture at the Soviet-run Kabul Politeknik, and by his second year found the pressure to join the institution's communist party overwhelming. "Slowly the invitation turned into more of a, 'you are either with us or with them.' Them meaning the freedom fighters on the mountains fighting the Russian forces," he explains. He soon escaped across the border into Pakistan.

When he first arrived in Australia in late 1985, there were less than a handful of Afghan families in Canberra. Today there are 400 Afghans living in Canberra, a number which is on the increase.

Shamim is the President of the Afghan Community of the ACT which has been helping newly arrived refugees since 2000. He became involved after being approached by the Department of Immigration to provide community assistance to young, single male Afghan refugees.

Shamim explained: "They had problems with basically everything. I had to lease a couple of houses in my name because neither the government or the private sector would lease them accommodation without references," he said. He has since been helping different groups of Afghan refugees with things like filling out forms at government offices and opening bank accounts.

Shamim has run a successful carpet and rug business (the Kyber Pass) since 1991, which has expanded to incorporate two stores in the southern suburbs of Canberra. One of the first



Shamim Fahiz at his carpet store in Tuggeranong, Canberra.

refugees he assisted now helps run the business after arriving only a few years ago with no knowledge of English.

It is the freedom of Australia and reward for hard work that Shamim values the most. "There is a system in place where you can do business successfully," he says. "If you do the right thing and have the right knowledge you can be successful."

Newly arrived refugees are now receiving support from the wider Canberra community: "Support from the government and community groups is really quite good at the moment. Newly arrived refugees from Afghanistan are eligible for English classes and provided with subsidised accommodation, which is very helpful," he said.

Thriving with change

There are more than a few changes afoot at the UNHCR Regional Office in Canberra.

THE OFFICE itself moved from O'Malley to 15 Hunter Street Yarralumla in late July, into the former premises of the Danish Embassy.

At the start of October, Mr Neill Wright took up the post of Regional Representative following the departure of Michel Gabaudan in July to head the UNHCR office in China. Neill was previously UNHCR's Representative in Sri Lanka.

At the end of October, Deputy Regional Representative Roberto Mignone left to take up a secondment to the UN High Commissioner for Human Rights in Colombia. This marks a return to that region for Roberto who has already worked for several years in Colombia and Central America applying his expertise in international and comparative law. Roberto made a significant contribution to the Canberra office over the last two



New UNHCR Office.

Photo: UNHCR/S. Whyte

and a half years, particularly in developing UNHCR's monitoring role of the Refugee Convention in the region. Alvin Gonzaga will be Acting Deputy Regional Representative until the position is filled.

In yet another change, Susan Harris Rimmer has left the resettlement/legal role she shared with Gabby Cullen to have her baby and finish her PhD. (Susan gave birth to a healthy Marina Rae on 10 November.) Gabby also went on maternity leave at Christmas to have

her second child. Resettlement enquiries can be directed to Francesca Wollaston in the first instance.

The new contact details for the Regional Office in Australia, New Zealand, Papua New Guinea and the South Pacific is as follows:

UNHCR
15 Hunter Street,
Yarralumla, ACT 2600, Australia
Phone: +61 2 6273 2733
Fax: +61 2 6273 6822
Email: aulca@unhcr.ch



Streetwise students tackle discrimination at school

The experience and treatment of refugees is the focus of a series of performance pieces developed by students undertaking a year-long Anti Racism Student Initiative Programme last year. Eight rural schools in the Queanbeyan School Education Area (SEA) have initiated the Programme as a part of their on-going commitment to addressing the causes of racism amongst students.

THE Other Side comic, produced by Streetwise Communications, provided an important framework for teachers and an inspiration for students in developing and performing the anti-racism workshops. The comic (reviewed in our last edition) follows the story of Yasmeen, a young refugee from Iraq, trying to fit in with her new Australian friends. Yasmeen tells of her families' persecution, escape, survival, detention and eventual release in Australia in order to counter claims made by her classmates that she could be a terrorist.

As a bright, visual medium with engaging storylines the comic was a dynamic starting point for generating discussion. Students were encouraged to respond to the issues raised in *The Other Side* by formulating their own scripts and scenes and enacting similar scenarios.

Students identified ignorance about refugees as contributing in particular to racism in schools. Year 11 student at Crookwell High School Leigh Cummins said: "I hope that I'm not prejudiced with refugees, particularly since I live in a rural community that's so racially diverse. I think that even though that's the case, there is still racism and arrogance or ignorance, because they haven't been exposed to many different cultures. So I think it's good to be motivated to see 'the other side'."

Monaro High School teacher Mark Friend, one of the teachers involved in the programme, said it was developed "to provoke thought and discussion" about issues in the media. His students have now performed their workshop

High School students Leigh Cumins and Jennifer Medway view *The Other Side* at a workshop in Yass, 2004.

Photo: UNHCR/S. Whyte

three times. Audiences are encouraged to interact, to intervene and suggest different ways to respond to issues raised in the play. The aim is to encourage people to move away from the preconceived, and often negative ideas, many people have about refugees.

Students are also encouraged to consider the sources of common misconceptions and attitudes. Friend said that in his class, news media had played a major role in shaping the opinions of students.

Leigh Cumins agrees: "In the workshop we felt our experience of racism stemmed from stereotypes and taking on ideas represented from the media, more through other people's ideas and opinions rather than direct experience of refugees," she said.

Mark Friend said both the comic and the workshops are a fun way of provoking more thought about refugee issues and racism more broadly. The strategy, he said, is to "hide the pill in the Danish."

New UNHCR Resources

The following resources are available from UNHCR's Regional Office in Australia.

UNHCR's Global Appeal 2005



THIS report provides an overview of UNHCR's strategies and programmes for the year 2005.

UNHCR's Mid-Year Financial Report for 2004



THIS report provides information on regional operations, Global programmes, Headquarters, transfers from the Operational Reserve and donors' contributions to UNHCR's programmes up to 1 July 2004.

2003 Annual Review



THE 2003 Annual Review for private donors was published in August 2004. The review shows how the support of individuals makes a difference to UNHCR. The electronic version is available from our website at www.unhcr.ch

Some of UNHCR's newly released documents from our Population Data Unit.

The electronic versions are available on our website:

www.unhcr.ch/statistics

If you wish to receive free regular electronic updates about their work or if you have any questions or require further information please send them an e-mail at stats@unhcr.ch

Protracted Refugee Situations

THIS document dated 10 June 2004 outlines UNHCR policy and data on 38 major long-standing refugee situations, including 6.2 million refugees.

Unaccompanied and Separated Children Seeking Asylum, 2001-2003

THIS document released in July 2004 by the Population Data Unit shows the trends in unaccompanied and separated children seeking asylum in 28, mostly industrialized, countries.

Refugee Education indicators 2003

THIS document provides an overview of education indicators and gap analysis covering 118 refugee camps in 23 asylum countries.

UNHCR Statistical Yearbook 2002

UNHCR's comprehensive annual statistical publication.



THE first part (Global Analysis) contains an overview of global refugee levels and trends as well as detailed tables on 2002.

The second part (Annex I. Comparative tables) updates all time series, which were included in the 2001 Statistical Yearbook.

This new third part (Annex II. Data sheets) contains a two-page "country data sheet" for 163 countries.

A one-page "regional data sheet" has been included for 49 different regions used by the United Nations, UNHCR and the Millennium Development Indicators.

The Yearbook is available from the UNHCR statistics website www.unhcr.ch/statistics and on a CD-ROM.

Latest resources available on UNHCR's Refworld website

www.unhcr.ch/refworld

For the latest Refworld "Country Information"

www.unhcr.ch/refworld/coi.htm

- UNHCR's Country of Origin Information (COI) paper on Iraq dated August 2004.

The paper will also be included on the updated Refworld 2004 CD-Roms.

- "Thailand: Background Paper on Human Rights, Refugees and Asylum Seekers" (Writenet, July 2004)

The paper has been made available on the Refworld "Research: Country of Origin Information, Writenet" page on UNHCR's website (www.unhcr.ch/refworld/coi.htm), and can be accessed by clicking on "Writenet, Country Reports."

This paper will also be added to the forthcoming issue of Refworld 2004 on CD-ROM.

For the latest Refworld "Legal Information"

www.unhcr.ch/refworld/legal.htm

- "Basis of Claims and Background Information on Asylum-Seekers and Refugees from the Republic of Belarus" (released in October 2004).

This paper can be accessed by clicking on "RefPol, UNHCR Documents, Country/situation specific guidelines or positions."

- UNHCR Return Advisory Regarding Iraqi Asylum Seekers and Refugees."
- UNHCR's new Note on the Cancellation of Refugee Status, dated 22 November 2004.

These documents will be added to the forthcoming issue of Refworld 2004 on CD-Rom.

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15 Hunter Street,
Yarralumla ACT 2600

Tel: +61 2 6273 2733 Fax: +61 2 6273 6822

E-mail: aulca@unhcr.ch

Web: www.unhcr.org.au

Editors: Sylvana Whyte and Ariane Rummery