

# **Women in the Context of International Refugee Law**

## **Abstract**

The refugee definition enshrined in Article 1(A)(2) of the Convention Relating to the Status of Refugees does not mention gender or sex as a potentially relevant factor when establishing the refugee status. However, with the human rights evolution at the end of the 20th century, it became imperative that the definition is interpreted in a way which will provide protection to women facing either gender-specific persecution (persecution in specific forms only applicable to women for the reason of their sex), or gender-related persecution (persecution for the reason of being a woman). The thesis explores the interpretation of the notion of gender-specific persecution and discusses several examples of this form of persecution: forced marriage, female genital mutilation and sexual violence. Then it considers the Convention grounds for persecution (i.e. particular social group, political opinion, religion, race and nationality) and a variety of possible arguments for a gender-sensitive interpretation of these grounds for the purpose of encompassing cases of women facing persecution because of their opposition, whether explicit or tacit, to patriarchal traditional societies based on inequality between sexes manifesting for example in resistance to female genital mutilation or forced marriage. The thesis further considers various means of argumentation and accentuates the necessity for gender-sensitive interpretation of all Convention grounds in comparison with gender-sensitive interpretation of only one Convention ground of particular social group. Although this ground has been the first ground to allow women's cases to be appreciated in a way respectful of gender, it has since become a default option for gendered cases and the exclusive use of this ground strengthens inappropriate stereotypes which view female refugees as vulnerable victims. The current practice of judicial bodies in gender-related cases is represented by selected case law of the European Court of Human Rights which bases its decisions on an analysis of women's independence or available protection of male relatives. It is argued that this reasoning reinforces a dated notion of vulnerable female refugees which is at odds with the need for a gender-sensitive approach to interpretation of all relevant aspects of women's cases.

**Key words: international refugee law, women, gender**