CHAPTER 7

A Feminist Human Rights Perspective on the Use of Internal Relocation by Asylum Adjudicators

Nora Honkala

My first encounter with Professor Sandy Ghandhi was as a master’s student in his module on international human rights. Indeed, it was his module. This is not just a cliché but also one that is demonstrative of his relentless belief in human rights being the idea of our time. Sandy taught the module inspiration- ally, seamlessly pulling together the immensity of theory and practice concerning the field, making it not only educational but also thoroughly enjoyable. Sandy’s exceptional experience, intellectual rigour and capacity for hard work are often modestly hidden behind his casual charm and wit. As my doctoral supervisor and mentor, Sandy never waned in his enthusiasm for engaging with justice, finding words of encouragement during my moments of despair; and, most of all, for giving me the space to make up my own mind. I am fortunate to have begun my academic career under Sandy’s mentorship.

1 Introduction

Women’s refugee claims often concern complex human rights violations that necessitate a nuanced interpretation and application of refugee law. The United Nations High Commission for Refugees (UNHCR) offers guidance to adjudicators to take a liberal and humanitarian spirit in light of the object and purpose of the 1951 Refugee Convention. In this chapter, I examine the jurisprudence from two appellate level decisions: FB (Lone Women-PSG-internal relocation-AA (Uganda) considered) Sierra Leone [2008] UKAIT 000901 and HC & RC (Trafficked Women) China CG [2009] UKAIT 00027. In both cases the adjudicators found there to be ‘persecution’ within the meaning of the Refugee Convention, but dismissed the appeals based on the availability of an internal relocation option.

1 Hereinafter FB (Sierra Leone).

2 Hereinafter HC & RC (China).
In this chapter I seek to critique the adjudicators’ reasoning with regard to the internal relocation option and argue that this reasoning evidences a problematically restrictive application of refugee law and process. Evidence from the two cases reveals that the reasoning does not adequately take into account the socio-legal realities of the nature of the asylum seeker women’s human rights violations. As such, the chapter concludes that the interpretation of the law evident in these decisions falls short of the standard of taking into account the overall object and purpose of the Convention, as well as the general human rights context. What is proposed is to engage with the feminist critiques in order to understand the discrimination that such an approach can cause.

2 International Refugee Law Framework

The 1951 U.N. Convention Relating to the Status of Refugees and its 1968 Protocol form the foundations of the international refugee protection regime. Today, the Convention has 145 State party signatories and remains the sole international legally binding instrument that gives protection to refugees. The definition of a refugee contained in the Convention is one of the most widely-accepted international norms, and one that has also made its way into public consciousness.3 Even though the Refugee Convention and its Protocol do not require the definition to be adopted by States, many nonetheless employ it in their domestic asylum systems.4 The Convention defines a refugee as a person who:

[O]wing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable, or owing to such fear, is unwilling to avail himself of the protection of that country; or who, not having a nationality and being outside the country of his former habitual residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it.5

---

5 Convention Relating to the Status of Refugees 1951, art. 1 A (2).