

Asylum procedures must adequately consider the situation of women and girls



The special situation for asylum seeking women and girls

Women and girls can be forced to flee their home country due to their political opposition towards the government or because they belong to a persecuted religious or ethnic minority. But there are also women and girls who flee due to problems with their families or the local community in their home country, where the state or local authorities do not offer any protection despite a risk of persecution because the female have acted against societal or family-related norms. It is often actors other than the state authorities that persecute women and girls.

Upon arrival in a European country of asylum, many of these women and girls are refused asylum or have difficulties being recognized as refugees according to the 1951 Refugee Convention. Female asylum seekers often do not get a fair examination of their asylum claims, because the asylum procedure does not adequately consider their situation. The national asylum procedure must ensure that the special circumstances surrounding women and girls are taken adequately into account during the asylum procedure. Special measures must be applied to ensure that these types of asylum cases are fully and correctly informed.

The Danish Refugee Council (DRC) has provided legal aid and counselling to asylum seekers and refugees for many years. Based on our legal aid work in Denmark and international guidelines, DRC has identified seven recommendations which can help ensure that women and girls get access to fair asylum procedures.

Women and girls should have access to specialized asylum procedures

Women and girls that come from male-dominated societies where the trust in the national authorities may generally be low, usually have not experienced that they could trust the authorities. When applying for asylum in European countries, women and girls are thus often sceptical towards authorities and can find it difficult to be open about their problems and disclose information about traumatic experiences.

Many asylum-seeking women and girls do not realise that they can have a relevant asylum motive, because they might perceive the problems they have experienced as normal life, thereby omitting important information during the asylum interview. They can perceive their problems as being shameful because they might have experienced violations, such as violent treatment from their family members, circumcision, forced marriage or rape.

Engaging with women and girls during the examination of the asylum claim and creating the conditions for a fully and correctly informed asylum case requires special measures and a well-considered organisation of the asylum procedure.

DRC's recommendations on asylum procedures for women and girls

1. Women should receive early and targeted information
2. Women should get access to independent counselling
3. Gender-related questions should be incorporated into the application form and used during the interview
4. Clear procedures for the processing of spouses' asylum cases
5. The credibility assessment must consider the special circumstances that often apply to women
6. Asylum authorities should appoint an expert or a coordinator on gender-related issues
7. Authorities should apply a gender-sensitive interpretation of the Refugee Convention
8. Increased focus on women's conditions when collecting COI

1. Women should receive early and targeted information

DRC recommends that the authorities inform women about and ensure the possibility of having a female caseworker and interpreter in the asylum procedure. The information should be provided as early as possible and preferably in connection with the registration of the asylum claim.

To organize the interview in the best possible way, it will also be relevant to identify whether any special measures should be considered, including gender-related or cultural challenges, in relation to stating the reason for asylum. As an example, a woman who has been the victim of rape or other sexual assault, might find it difficult to explain about her experience to a male interpreter or caseworker.

Trust in the authorities is crucial for the examination of the asylum claim. For women to trust the authorities, it is particularly important that they get information about the duty of confidentiality and that the authorities will not share any information with neither the spouse nor any other family member in case they are part of the woman's asylum motive.

2. Women should get access to independent counselling

DRC recommends that upon registration, female asylum seekers are informed about their right to independent counselling. The informal and confidential nature of independent counselling can support the women in establishing trust in the asylum procedure, the role of the authorities and be a prerequisite for women to dare be open about their problems in a way that ensures that the asylum case can be properly informed from the beginning.

UNHCR's guidelines on gender-related persecution emphasize the importance of women getting access to counselling before the asylum interview. Women need to be informed about the status determination process, how they get access to the procedure and access to legal advice during and this information should be provided in a language and manner that they understand.¹

Access to independent counselling helps to ensure that the asylum seekers can engage in the asylum procedure and contribute with information that is relevant to their case, thereby allowing for the asylum authorities to issue a correct decision in the first instance.

3. Gender-related questions should be incorporated into the application form and used during the interview

To ensure that gender-related issues relevant to the asylum case are uncovered, DRC recommends that the authorities incorporate gender-related questions in the application form and use the same questions during the interview.²

Including gender-related questions can assist the authorities in getting all asylum-relevant information from women who themselves do not always realise that their problems are relevant for their asylum case. Some women may consider their problems part of everyday life, not realising that they could form an asylum motive.

¹ UNHCR, "[Guidelines on international protection no. 1: Gender-Related Persecution within the context of Article 1A\(2\) of the 1951 Convention and/or its 1967 Protocol relating to the Status of Refugees](#)", 7 May 2002, paragraph 36.

² GREVIO, "[Baseline Evaluation Report Denmark](#)", 24 November 2017, paragraph 239.

An example could be that a woman who has been indirectly involved in political activities, or who is perceived as having a certain political opinion, so-called imputed political opinion, would not inform about her own risks during the asylum interview, because the questions are usually male-orientated and focus on uncovering the consequences of the direct political activities.

Another example could be that if a female asylum seeker is questioned about whether she has experienced torture, she would not always explain about all the other types of abuse she could fear such as rape, sexual assault, circumcision, honour killings, forced marriage, and abuse within the family.³

In situations where a female asylum seeker is accompanied by her husband or another male family member, there is also a risk that the authorities mainly focus on the male asylum motives, while the woman's individual asylum motive can be overlooked. Such risks make it necessary for the authorities to be proactive and ensure that they allow the women to engage in the asylum procedure and present all their possible asylum motives.⁴

By incorporating gender-related questions in the application form and during the interview, the authorities allow for the asylum case to be fully and correctly informed from the start.

4. Clear procedures for the processing of spouses' asylum cases

In case a woman arrives together with her spouse, DRC recommends that the authorities have clear procedures for the processing of the spouse's asylum case to ensure that the woman is protected in case of conflict between the spouses.

Building trust in the authorities and the asylum procedure is particularly important for women, who have been exposed to negative social control and violence. Women with such experiences will usually be anxious about explaining their problems to the authorities due to fear that their spouse and/or another abusive family member will receive the information afterwards.

Asylum interviews with spouses should be held separately and the interviews should follow clear guidelines with certain requirements for the caseworker to allow for the women to understand the procedure and be able to engage.

It is important that the interview is initiated with a thorough introduction about the aim of the asylum interview and the roles and obligations of both the caseworker and the interpreter. The asylum seeker should be assured that the asylum claim will be treated with confidentiality and that her statement or parts of it will not be shared with members of her family.⁵

Cases must also be kept separate in the case management system and marked to ensure that all government officials are aware that confidential information from the woman's statements are not by accident shared with an abusive and/or socially controlling spouse or family member. These procedures are essential for the women to build trust in the procedure, thereby allowing them to dare inform the authorities about social control and violence in the family.

³ UNHCR, "[Guidelines on international protection no. 1: Gender-Related Persecution within the context of Article 1A\(2\) of the 1951 Convention and/or its 1967 Protocol relating to the Status of Refugees](#)", 7 May 2002, paragraph 36.

⁴ UNHCR, "[Guidelines on international protection no. 1: Gender-Related Persecution within the context of Article 1A\(2\) of the 1951 Convention and/or its 1967 Protocol relating to the Status of Refugees](#)", 7 May 2002, paragraph 36.

⁵ UNHCR, "[Guidelines on international protection no. 1: Gender-Related Persecution within the context of Article 1A\(2\) of the 1951 Convention and/or its 1967 Protocol relating to the Status of Refugees](#)", 7 May 2002, paragraph 36.

5. The credibility assessment must consider the special circumstances that often apply to women

If gender-related asylum motives are revealed late in the asylum procedure, DRC recommends that the authorities do not automatically consider the new asylum motives as not credible. The credibility assessment must consider the special situation of the individual woman and her possible motives for not having revealed the asylum motive sooner.

A good practice is found in Denmark where homosexual asylum seekers usually are met with understanding if this motive only emerges late in the asylum procedure. The authorities know that it can be extremely shameful for the individual to talk about their sexuality.

Women's issues can also often be perceived as shameful, if they have experienced violence from spouses and/or other male family members, circumcision, forced marriage, violation of national/regional norms for women, or they may have been subjected to violence and rape either in their home country or on the journey to safety.

Women, who come from a male-dominated country where they have not been used to being in contact with the authorities and where the trust in authorities generally may be low, can be skeptical of the asylum authorities and may find it difficult to engage in the asylum procedure and explain about their reasons for asking for international protection.

During the asylum procedure, women will typically become more familiar with the procedure and gain more trust in the national asylum system, making them more willing to disclose information about abuse and violence that otherwise is considered as extremely shameful.

Information that emerges late in the asylum process can often negatively impact the overall credibility assessment of the women's asylum claims as authorities perceive the new asylum motive as an expansion of the asylum claim instead of supporting evidence.⁶

To ensure that asylum decisions are based on all relevant information, the authorities must consider the special situation of a female asylum seeker when examining her asylum case and assessing the credibility of her claim.

6. Asylum authorities should appoint an expert or a coordinator on gender-related issues

DRC recommends that the national authorities appoint staff with specialised knowledge of gender-related issues who can act as an expert with the mandate to coordinate and guide asylum processing of gender-related issues and ensure a gender sensitive interpretation and procedure.

The examination of a gender-related asylum motive is both sensitive and complex, thereby making it difficult for the individual caseworker to keep a full overview. The authorities might ask the woman to share information about potentially very sensitive and deeply personal issues which renders it important to create a safe and trusting space that allows for the woman to engage in the asylum procedure.

It can be difficult for the individual case worker to have the necessary knowledge of gender-related persecution, as they have many different cases, and their general knowledge often needs to be broad. It will therefore ease the work of the individual caseworker and ensure fair processing of the asylum claim if the authorities appoint an expert or a coordinator on gender-related asylum claims. The expert or coordinator should be trained in gender-related issues and be responsible for the

⁶ GREVIO, "[Baseline Evaluation Report Denmark](#)", 24 November 2017, paragraph 237.

coordination and guiding of the procedure to ensure a gender-sensitive interpretation of the asylum claim and to ensure a safe environment where the female asylum seeker is able to engage and fully inform her case.

7. Authorities should apply a gender-sensitive interpretation of the Refugee Convention

Following UNHCR's guidelines, it is important to ensure a gender-sensitive interpretation to each of the grounds within the 1951 Refugee Convention.⁷

A gender-sensitive interpretation ensures that the case worker is aware of and pays attention to how persecution of women can be expressed differently compared to men and how private conflicts can in fact relate to one of the five grounds of persecution such as political, religious or being part of a particular social group in some cases.

As an example, if a woman fears persecution based on having breached societal rules or norms, such as refusing to wear a traditional piece of clothing, it can in certain cases be more accurate to consider the risk the woman is facing as based on political or religious persecution. This can be the case if the state perceives the action as a political or religious expression, and for that reason either persecutes the woman themselves or refuses to protect her from persecution by relatives or other groups.

8. Increased focus on women's conditions when collecting COI

When preparing country reports and other types of country-of-origin information (COI), DRC recommends that the efforts to collect information about the specific conditions for women are enhanced.

To make a correct decision on gender-related asylum claims, it is necessary to have relevant information about the conditions for women in their home countries. It may be relevant to know about women's access to the legal system and women's political, social, and economic rights. It can also be important to know about the cultural and societal expectations to women in the country – and the consequences of not complying with them. Another issue is whether there is any prevention against harmful, traditional practices, how violence against women can be reported, whether protection is available, and what punishment abusers receive etc.

⁷ 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, 7th of May 2002, paragraph 22, p. 6

Women and the 1951 Refugee Convention

According to the 1951 Refugee Convention a person is a refugee, if he or she risks persecution due to race, religion, nationality, membership of a particular social group, or political opinion (the so-called Convention grounds).

A gender-sensitive interpretation

UNHCR emphasizes that women can face persecution based on the Convention grounds because they are perceived in a certain way, or they are seen as aligning with their family or community. UNHCR thus calls for a gender-sensitive interpretation of the Refugee Convention to ensure that authorities uncover whether a female asylum seeker faces persecution due to the Convention grounds.¹

The need for a gender-sensitive interpretation of the 1951 Refugee Convention is also being highlighted by the Committee on the Elimination of Discrimination against Women (CEDAW).²

A gender-sensitive interpretation of the 1951 Refugee Convention means that the asylum authorities should consider that persecution of women can take place in different ways than for men and that what appears to be a private conflict sometimes is actually a conflict related to political or religious persecution. An example could be a woman who claim international protection because she has violated societal norms and rules, thereby risking persecution based on the Convention grounds – synes eksemplet er lidt indholdsløst. Enten uddybes eller udelades tror jeg..³

1. UNHCR, “Guidelines on international protection no. 1: Gender-Related Persecution within the context of Article 1A(2) of the 1951 Convention and/or its 1967 Protocol relating to the Status of Refugees”, 7 May 2002, paragraph 22.
2. CEDAW, “General recommendation No. 32 on the gender-related dimensions of refugee status, asylum, nationality and statelessness of women”, 14 November 2014, paragraph 36 and 38.
3. UNHCR’s 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 23.
4. UNHCR, “Guidelines on international protection no. 2: “Membership of a particular social group” 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 11.
5. UNHCR, “Guidelines on international protection no. 2: “Membership of a particular social group” 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 12.

Particular Social Group

In some situations, women can be seen as belonging to the Convention ground “particular social group”.

According to UNHCR’s definition,

*“a particular social group is a group of persons who share a common characteristic other than their risk of being persecuted, or who are perceived as a group by society. The characteristic will often be one which is innate, unchangeable, or which is otherwise fundamental to identity, conscience or the exercise of one’s human rights”.*⁴

Women or gender can thus constitute a particular social group as they possess innate and unchangeable characteristics and are often treated differently compared to men.⁵ Although membership of a particular social group usually is not enough to justify recognition of refugee status, there can be special circumstances which allow for an asylum seeker to be eligible for protection due to fear of persecution.⁶

Discrimination

In some countries, women experience serious discrimination. An example could be that single women in some countries would not have the same rights as men and cannot live their lives with access to basic rights unless they get assistance from a male family member. Usually, discrimination does not equal recognition of refugee status. But according to UNHCR, the combination of systematic discrimination and ill-treatment can constitute persecution. An example could be that the person, who experiences discrimination cannot provide for herself, practice her religion, or get access to available education.⁷ CEDAW also confirms that discrimination against women can become so serious that it constitutes persecution.⁸

6. UNHCR, “Handbook on procedures and criteria for determining refugee status and Guidelines on international protection”, February 2019, paragraph 79.
7. UNHCR’s 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 14.
8. CEDAW, “General recommendation No. 32 on the gender-related dimensions of refugee status, asylum, nationality and statelessness of women”, 14 November 2014, paragraph 14.



Founded in 1956, the Danish Refugee Council (DRC) is Denmark's largest international NGO, with a specific expertise in forced displacement. DRC is present in close to 40 countries and employs 7,500 staff globally.

DRC advocates for the rights of and solutions for displacement-affected communities, and provides assistance during all stages of displacement: In acute crisis, in exile, when settling and integrating in a new place, or upon return. DRC supports displaced persons in becoming self-reliant and included into hosting societies. DRC works with civil society and responsible authorities to promote protection of rights and inclusion.

Our 6,200 volunteers in Denmark make an invaluable difference in integration activities throughout the country.

DRC's code of conduct sits at the core of our organizational mission, and DRC aims at the highest ethical and professional standards. DRC has been certified as meeting the highest quality standards according to the Core Humanitarian Standard on Quality and Accountability.

HRH Queen Mary of Denmark is DRC's patron.

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