Nationalism and asylum: implications for women

INGRID PALMARY looks at the gendered assumptions made in nationalist discourse, and the impact these have on women applying for asylum[1]

Images of war and discourses of armed conflict are subject to continuous, sometimes explicitly productive, reconstruction. It is often noted that history is dynamic, changing and viewed through the lens of present day events and realities (Venn, 1984). Representations of wartime are part of this history and as such are reframed, re-understood and re-negotiated as new events unfold and commonly held perspectives in a country change. Discourses do not, therefore, describe the world neutrally but classify it, bringing some aspects of our social reality into sight while concealing others (Parker, 1992: 2002). In this way, discourse becomes a framework for debating the value of one version of reality over another. As such, discourses of war and conflict are used to achieve political ends (Corry and Terre Blanche, 2000). Current practices in relation to armed conflict, therefore, need to be understood in relation to the history and origin of these practices and the demands of the current political climate.[2] If one considers the South African situation, the Truth and Reconciliation Commission (TRC) offered South Africans an opportunity to develop a counter-memory of the apartheid past and to re-author the South African war in an effort to achieve national reconciliation. This took place in the context of a powerful political will to acknowledge the wrongs of apartheid, and to reshape the identity of South Africans in order to create a society that was integrated and less severely divided by perceived racial differences. Minkley and Rassool (1998:93) state that this process of reconstructing history in South Africa functioned to

> *produce(d) a politics of history as weapon, tool, and vehicle for empowerment, as part of a broad project to develop an education for a post-apartheid South Africa.*

In a similar vein, Bloom (2000:7) states that:

> *The TRC process was concerned not only with uncovering what had happened in the past, but also with doing it in such a way as to produce certain effects, in particular to bring about national reconciliation.*

Thus the evidence that was produced through the TRC process was that which fitted within the nationally identified boundary of reconciliation and the process of creating a new nationalist discourse within South Africa.

This example illustrates that political rhetoric, including rhetoric about armed conflict, shapes national identity, constructs ideals about a future society, and promotes activities to achieve this society. There are, however, many examples worldwide where national identities have been constructed in a way that promotes violence, prejudice and conflict by drawing on a perceived common ancestry.[3] Similarly, even positive attempts at 'nation-building' have the unintentional consequence of constructing an 'other' (Corry and Terre Blanche, 2000). This *article* will look at some of the gendered assumptions made in nationalist discourse and the ways in which gender stereotyping, far from rendering these discourses illegitimate, give impetus and 'truth' to them. It will then consider the implications that these national discourses have for women applying for asylum, based on the assumption that asylum and immigration legislation are key mechanisms through which nationalist sentiments are activated and achieved (Bhabha and Shutter, 1994).

There have been two major critiques about the ways in which nationalist discourses have produced gendered effects. First is the simple omission of women's political activity and participation in armed conflict. Second is the emphasis on women's experiences within spheres in which they are typically (and stereotypically) confined, namely the domestic sphere. This *article* argues that it is assumptions about essential female qualities that allow these strategies to emerge and that a feminist critique of these strategies will enhance equitable advocacy for refugees.

Nationalist rhetoric appears, in some contexts, to be universal as it addresses all members of a nation state. Feminist analyses have shown that this assumed homogeneity often reflects the views and desires of the most powerful members of a society and thus smoothes over divergence and difference (Thurshen and Twagiramariya, 1998). The national agenda, through its pretence at universality, is controlled and decided by privileged men and reflects culturally constructed masculinities. This construction of a unified nation is not accidental. Nationalism requires the definition of a nation as unified and homogenous if all members are to identify with it and with each other. Perceived unity is vital to the success of the project of constructing a sense of national identification. For this reason, those holding the reins of national power (including political leaders, influential members of civil society and other key public figures) have often dismissed feminist agendas as divisive and unpatriotic. The result of this homogenous construction is that there is no acknowledgement of the internal power conflicts along, for example, gender lines. This is a liberal construction and groups in agreement with the nationalist discourse often collude with fundamentalist leaders who claim to represent the true essence of their group's culture, religion, etc and who often have the control of women high on the agenda (Yuval-Davis, 1990). This 'discrimination through omission' is just one way in which national discourses act to reinforce and reproduce gendered identities. It is this gender-blind approach to nationalism that has been challenged by many feminists (eg Yuval-Davis, 1990) who have recognised that much national discourse serves to further marginalise less powerful groupings (Guijt and Shah, 1998). Furthermore, nationalist discourse produces a history that excludes the activities and experiences of women and ignores their contributions to and contestations of the national project (Thurshen and Twagiramariya, 1998). However, alongside this apparent omission of women in nationalism is a very frequent and consistent remembrance of women and their activities in armed conflict - a strategy that Cockburn (1998) refers to as the 'present-absence' of women in representations of armed conflict.

Reproducing culture and identity

Nationalism requires the definition of a nation as unified and homogenous

One of the central ways in which women are actively remembered during times of armed conflict is through their caring and nurturing roles. The women of a nation are constructed in these discourses as symbols of cultural identity (Yuval-Davis, 1990). They are, through their roles as caregivers, educators of children and keepers of familial relations, given the task of transmitting social and cultural customs and values. Cultural boundaries are often signified through the behaviour and appearance of women such as the clothing differences between western and Muslim women. Yuval-Davis and Anthias (1989) identify a number of ways in which women are implicated in the reproduction of national identities. The first is as biological reproducers of the members of national collectivities. To this end, women's sexuality and reproduction has often been actively manipulated. Examples include the unauthorised sterilisation of black women in South Africa during apartheid, the anti-abortion laws in many countries and the 'one child rule' in China. This is linked to their role as reproducers of the boundaries of national groups where the control of women's sexual behaviour is required to maintain boundaries of group membership. Thus, restrictions on sexual or marital relations, of which the South African Mixed Marriages Act No 55 (1949) under apartheid is an example, often serve to maintain a constructed sense of who belongs to a group and who does not.

Women are also constructed as the active transmitters and producers of the national culture. Linked to their responsibility for the education of children and the transmission of traditional family values, women also become the symbolic signifiers of national difference. They are seen as the ones who maintain tradition (as it is constructed through national discourse) and an accustomed way of life in times of conflict (Yuval Davis and Anthias, 1989). As an illustration, McClintock (1990) argues that it is often through their apparel, such as wearing veils or not, that women become the markers of a society. Because women are the markers of cultural identity they are often subject to vigilant scrutiny and, at times, violent discipline. Women's behaviour and reproduction is controlled at a national level, particularly at times when national identity is seen to be under threat. They are 'emblems of culture' and as a result their bodies are manipulated to organise and reinforce the 'correct' functioning of society. Traditional clothing ensures that women represent their community and cultural expression. Because women's bodies are a site for the creation and nurturing of cultural values specific to a particular national project, they are also the primary site for military penetration and resistance from groups in conflict with the national identity. This begins to explain the high levels of rape during times of conflict and national struggle (Bhabha and Shutter, 1994). Yet in spite of this direct link between sexuality, reproduction and nationalism, the relationship between sexuality and the state is often denied in asylum legislation, as will be discussed later.

Because women are the markers of cultural identity they are often subject to vigilant scrutiny

Through their traditional roles as socialisers of families, women are called to participate in the reproduction of the fatherland. Cock (1993) relates how Afrikaner national identity relied on the construction of the passive female, suffering in the concentration camps of the Anglo-Boer war. Such naturalisation and covert masculinisation of the protection of the national territory relies on the assumption that women are naturally vulnerable and on emphasising their role as reproducers and carers (Radcliff, 1996). Moreover, it is ironic that despite the way in which women are implicated in nationalism, they are remembered only in a way that reinforces, or at least does not challenge, the public/private dichotomy, with women's place deemed to be in the private sphere of home and family. One consequence of seeing women as implicated only in the private sphere, is that the torture and political violence they suffer as well as their political activity, is seldom recognised. However, the justification of activities within the public realm of politics and war exists precisely through the construction of a private sphere, which takes place through the selective remembering of women's activities, and through the physical and cultural regulation of their bodies. Far from being contradictory discursive strategies, the practice of ignoring women's activities or remembering them in stereotypically gendered ways, works together to produce the current asylum practices discussed in the following section. Of course, images of femininity conjured up in the nationalist discourse are shaped by other forms of structural oppression such as class and race. Cock (1993) shows how constructions of Afrikaner women represented them as tougher than English white women. In spite of these differences, a common theme in nationalist discourses remains the need for the protection of women by men.

It becomes understandable, then, that many states have shown resistance to women's involvement in the military primarily because it has been thought to weaken the family, and because it undermines the notion of vulnerable women on which many national struggles are based. Recognising women's role in the military stands to erode one of the most powerful cultural constructions of national collectivities, that is, going to war for 'womenandchildren' (Yuval-Davis, 1990). For example, the previous Cape Town Education Department's Cadet Training Manual included a section entitled 'the protection of hearth and home' (Cock, 1993:70). In addition to the notion that feminist activity is often seen as divisive in times of conflict - predominantly because the national struggle purports to serve all within the nation - women's groups have either been marginalised or co-opted into the mainstream struggle. Some literature (Turshen and

Twagiramariya, 1998) notes how women often consciously set aside their demands until the national cause has been addressed. The consequence is that women's groups are weakened through inactivity or redefinition of their core area of business.

Nationalist discourse also sees gender relations as unchanging and stable. Women writers have been quick to notice however, that in times of national struggle, women have often moved out of their traditional roles. Thurshen and Twagiramariya (1998) note how women who previously have led almost no public life have become community leaders, activists and economic providers. Fenster (1998) notes how Ethiopian women, integrated into Israeli society, made far more rapid advances in employment than had been initially planned for. This tested the patriarchal form of the family as increasingly unemployed men retreated into the private sphere and economically active women took up roles in the public sphere. We should not, however, automatically celebrate the effects of armed conflict as disorganising patriarchal social relations. In many instances, women's involvement in the public sphere has been temporary and often met with increasingly repressive national discourses that issue severe penalties for this public life. Indeed, this may be one of the primary functions of nationalistic discourses: to return to a previously gendered lifestyle. Similarly, in many cases women have also argued for reinforcing women's role in the private sphere. Cock (1993) notes that in South Africa, the damage done to African families by apartheid resulted in both men and women mobilising in defence of the family. Similarly, women's mobilisation against the extension of the pass laws to women was largely framed in terms of the impact it would have on their roles as mothers and wives (Schmidt, 1983). It is frequently argued by some women that to call for a feminist agenda automatically reveals divisions within members of a particular group, conflicts with the national agenda and is divisive. This ignores the fact that not only are nationalisms constituted via gender relations, but also that setting aside women's political organisations disempowers them, making it harder for them to organise after the struggle (McClintock, 1990).

I have argued that national discourses reinforce women's subordination in a number of ways as they are based on a male defined agenda into which women rarely input, despite the central role that they are awarded in it, and the justification of nationalism as being in the interests of the 'womenandchildren'. National discourses can reproduce, and often strengthen traditional understandings of women as victims, carers and reproducers. In times of war, women and men are understood to exemplify gender specific virtues: men are soldiers and, therefore, heroes; women support them and are victims. Finally, in support of the project of reproducing women in traditional and subordinate roles, national discourses disregard or stigmatise women who do step outside of traditional gender roles. Women soldiers are, in contrast to men, not heroes, but tainted (Dowler, 1998).

Women soldiers are not heroes, but tainted

The construction of masculinity in war draws greater power from its juxtaposition with images of femininity. Presenting women as frail and passive encourages men to be protective of them (Dowler, 1998). Jackson (cited in Dowler, 1998) refers to this as misogyny in the guise of chivalry. This is evident in the seemingly contradictory practices of the former South African Defence Force where war was legitimated through its claims to protect women, while the military training made continual use of misogynist and heterosexist name-calling to insult and discipline members (Cock, 1993). This ambivalent relationship between gender and nationalism has resulted in the feminist notion that 'all nationalisms are gendered, all are invented and all are dangerous' (McClintock, 1990: 409). Nations are systems of cultural representation whereby people come to identify with an imaginary extended community. They are historically produced practices through which social difference is invented and performed (McClintock, 1990; Ranger, 1983). It is important to note therefore that critiquing nationalisms and their role in conflict situations has real and important practical implications. For the purposes of this *article*, the implications for women seeking asylum will be considered.

Women's challenge to nationalism

If we accept that nationalism is powerful, at least in part, through its construction of women as passive victims of war as well as reproducers and cultural signifiers of the nation, then one of the most effective mechanisms for challenging these constructions is to highlight the activities of women who have not played traditional gendered roles (Thurshen and Twagiramariya, 1998;Cock, 1993). Sharoni (1990) for example, describes the widespread women's resistance in the Middle East conflict. She notes how long before the 1991 Madrid Peace Conference, Pakistani and Israeli women held a series of conferences to develop a framework for Middle East peace. This work was effectively written out of history. Sharoni also notes how women's organisation in times of conflict has been actively resisted by national governments when they have been seen as too threatening. As an example, the author cites the Arab Women's Solidarity Association (AWSA) which was dissolved by the Egyptian government when it organised over the invasion of Kuwait by Iraq (and the United States' intervention in this regard). She notes how, particularly in relation to 'oriental' women, historical documentation of conflict and struggle has drawn only on events that reinforce women's role as passive victims. Sharoni makes the important point that this is particularly the way that 'oriental' women are portrayed by western men (and women), reinforcing an image of the western world as enlightened and egalitarian. It is important, however, to avoid simply replacing the traditional images of women (as victim and supporter of the male soldier) and men (as soldiers and heroes) in armed conflict with one of women who have the same experience of and role in armed conflict as men. Rather, we should attempt to identify the complex, diverse and multiple roles that both women and men play in times of conflict and how these both reinforce and challenge nationalism. Rather than simply showing that women also fit within traditional images of the (male) political dissident, we need to consider the ways in which this male/female, public/private divide functions to reproduce gendered approaches to asylum policy and practice.

Women's organisation in times of conflict has been actively resisted by national governments

In addition to challenging assumptions about traditional (private sphere) activities that women have engaged in, women have challenged the very notion of the political by showing that activities that take place within the private sphere, such as women's resistance to taking primary responsibility for childcare, are themselves political. Waylen (1996:17) for example, notes, 'women use their socially prescribed roles to act politically' and argues that women's challenges to the ways in which their bodies and sexuality are controlled should be recognised as political acts. These represent important challenges to the exclusion of women's experiences. What they do not do however, is challenge the dichotomy established between the 'typical male' experience of conflict and the 'special women's' experi-ence. The difficulties that this dichotomy establishes for feminist action will be discussed later. It is, of course, important to recognise that women have often used informal structures in order to organise politically. In addition, however, we need to recognise that the existence of formal political structures is maintained through the (re)creation of the public/private dichotomy. By being integrated into the 'male' traditional political realm, women's groups risk being coopted into structures of power - a fear that has been well documented by feminist movements (Afshar, 1996). However, by developing an alternative discourse of women's politics that operates outside of mainstream politics, the traditional notions of women in national discourses as separate from real politics and as operating only in the private sphere, are reinforced. Rather, there is a need to challenge this dichotomy and the essentialised understandings of women and conflict that are contained therein. Before doing this, I provide, as an illustration, the ways in which this dichotomised discourse of armed conflict has been used to marginalise women in the asylum process.

Women and asylum

Some of the most important consequences of representations of women as described here are played

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Many states show resistance to women's involvement in the military as it is thought to weaken the family

out in the asylum process. Indeed, the functioning of national discourse to achieve gender inequality can fairly easily be mapped onto the ways in which the asylum process and legislation appears to marginalise women. Analyses of women's applications for asylum, most of which have been generated in the West, have shown that assumptions about women's role in armed conflict have been central to the ways in which asylum policy and procedures have been structured (Spijkerboer, 2000). As a result, we see the familiar public/private dichotomy where both the omission of women's experiences and their specific inclusion in ways that reinforce national discourse and gendered assumptions of women and war are reflected.

It is not difficult to find ways in which women's involvement in armed conflict and their victimisation because of their gender has been ignored through asylum legislation. Gender was raised as an issue to be included in Article 3 of the 1951 Convention Relating to the Status of Refugees, which states that:

The contracting states shall apply the provisions of this Convention to refugees without discrimination as to race, religion or country of origin.

In other words, it was proposed that gender be included along with race, religion and country of origin as a category of potential discrimination. This proposal was rejected as it was stated that 'equality of the sexes was a matter for national legislation' (Spijkerboer, 2000:1). Spijkerboer quotes the then High Commissioner on Refugees as saying that:

The original idea underlying Article 3 was...that persons who had been persecuted on account of their race or religion, for example, should not be exposed to the same danger in the country of asylum. I doubt[ed] strongly whether there would be any cases of persecution on account of sex (Spijkerboer, 2000:1).

No further reference was made to the inclusion of gender until three decades later. It was Goodwin-Gill who, in 1983, first argued for the recognition of women's resistance to cultural practices as political activity. This argument gained momentum in the '80s and several attempts were made by the United Nations High Commissioner for Refugees (UNHCR) to consider the rights of women under asylum legislation.[4]

The South African Refugees Act (No 130 of 1998) was first proposed in 1996 and went through several drafts and significant public consultation before being implemented in 2000. Comparatively, this legislation is viewed as progressive and providing well for the needs of refugees. However, several key criticisms have been raised about the Act. In particular, the six-month period during which asylum seekers may not access work or education has been criticised and was challenged recently in court.[5] Although a full overview of the criticisms of the Act is beyond the scope of this *article*, one of the important concerns raised by civil society has been that there may be a wide discrepancy between the policy and practice and that, practically, refugees in South Africa may not enjoy the rights to which they are entitled (Palmary, 2002).

Significantly, the South African Refugees Act does not specifically mention gender. Apart from a dutiful use of 'he or she' at all times in the legislation, there is no mention of the gender dimensions of refugee cases. The fact that only 17.8 percent of the UNHCR assisted refugees in South Africa are women (Valji and de la Hunt, 1999), suggests that women are not able to access the main body of legislation easily. According to a 'gender policy statement' issued by the South African Department of Home Affairs, women make up about five percent of those that have formally been granted refugee status in South Africa (Valji and de la Hunt, 1999). This is not significantly different from other countries. Although the statistics vary, the percentage of female refugees remains low.

In South Africa, gender guidelines were developed as a civil society advocacy strategy

South Africa has sought solutions based on models from other countries. The development of gender guidelines has been one of the most common responses to the absence of legislation that women can access. The fact that gender guidelines have been developed in so many varying contexts shows the extent to which seemingly gender-neutral legislation fails to address the needs of women who are forcibly displaced. There is, however, a great deal of variation in the ways in which gender guidelines have been used by the state. In South Africa, gender guidelines were developed as a civil society advocacy strategy rather than as a result of government recognition of the needs of women refugees and asylum seekers. The Department of Home Affairs is, therefore, not required to take them into account.

The South African gender guidelines emphasise two main ways in which women should be considered as victims of persecution. The first is by recognising acts typically performed by women (such as cooking for members of an armed force or carrying messages on their behalf) as political, and the second is by recognising resistance to gender oppression (female genital mutilation has perhaps been the most well cited example) as political. The latter could require recognition of women as a 'social group', as described in Article 3 of the Convention Relating to the Status of Refugees. Following the Canadian approach, the South African guidelines suggest four categories of women asylum seekers. The first two categories fit the traditional notion of political dissident as intended by refugee legislation and include those who are persecuted because of their relationship to an (implicitly male) activist. These would be addressed through mainstream legislation. On the other hand, those who are persecuted because of their gender and for transgressing gender norms are seldom acknowledged in the main body of asylum legislation. It is the rights and needs of the latter category of asylum seekers, therefore, which are most commonly taken up in the development of gender guidelines including in South Africa[6] (Valji and de la Hunt, 1999).

One of the most important concerns raised in western countries about developing gender guidelines is that they give the impression that the state has addressed gender inequality in asylum procedures (Spijkerboer, 2000). Further, they may reinforce the notion that certain wartime experiences and events amount to 'women's claims' while others are 'men's claims'. In spite of the importance of recognising that some women may not have the same experiences as men, Spijkerboer (2000), in an analysis of women's asylum cases in the Netherlands, notes that the creation of special 'women's' cases has actually been used as a technique for rejecting such cases. He shows that the failure of these guidelines to challenge fundamental assumptions about women's roles in conflict and in the private sphere may actually result in increased prejudice in the asylum process. Although such information is not available in the South African context, it points to the importance of monitoring the uses and abuses of gender guidelines, and of a continual critical reflection on the assumptions that underlie them. This danger is indeed recognised in the South African gender guidelines and suggestions are given for monitoring their implementation.

Difficulties aside, the gender guidelines represent a major step forward when considering women's access to protection from persecution. However, the ways in which these guidelines and the mainstream legislation are drafted, does not encourage the challenging of accepted national discourses on women in times of armed conflict. As with the discourses on nationalism, where women have been constructed in a way that reinforces their passive nature, their traditional familial roles and their particular victimisation, the combination of the Refugees Act and the gender guidelines that have been developed, relies on universal assumptions about women's experiences that are rooted in the private domain. This is not to suggest that there has not been activism to recognise women's role as typical political dissidents, as intended in the initial Refugee Act. Rather, the creation of a 'special' set of policies that relate to women's experiences of conflict works to emphasise their experiences as different and belonging to the private sphere, which reinforces the male private/female public divide.

One of the starting points of understanding the relationship between national discourses and women's applications for asylum is to recognise that any asylum application is made through choices by lawyers, reception officers, translators etc. It is the interviewer who decides what questions will be asked, what stories followed up and what parts of the applicants' statement get noticed. The asylum application is therefore a construction of meaning through a series of interviews and interpretations. The way in which this construction takes place is framed by broader discourses of women as refugees, which are intimately linked to some of the nationalist discourses identified earlier. Spijkerboer (2000) notes that discourses of women as refugees draw on the notion that the family is separate from the state - the implication being that what takes place in the family cannot be political. The family and the associated 'private' forms of violence are set up in binary opposition to 'political' persecution. This construction operates alongside an overwhelming emphasis on the activities of women in the private sphere. This can be seen as a consequence, at least in part, of the ways in which national discourses deny the relationship between the state and the family. As such, a woman protesting the killing of her son is seen as an example of grief rather than political action, and the personal is never recognised as also political. Similarly, the transgression of dress codes has been seen as a personal preference rather than a political act.

Spijkerboer (2000) gives several detailed examples of how women's association with the private sphere is used to deny them asylum despite statements identifying women's resistance as political. In particular, he notes how the asylum process rewards women who conform and views those who contradict such constructions as not having legitimate asylum claims. Questions are asked of women about their family relationships (in particular marriage relationships) and this is seen as an indicator of her credibility as an asylum seeker. For example, asylum reports in the Netherlands (cited in Spijkerboer, 2000) were sceptical of women who did not show emotion when relating stories of sexual violence, while excessive emotion was seen as 'play-acting'. Similarly, female claimants who leave behind family members are not seen to be credible, as it is believed that a mother would not leave a family in severe danger. Spijkerboer (2000) notes that in cases where this happened, women were not asked to give reasons for leaving family members. The assumption was made that the women's statements were false. This example suggests the need for an analysis of cases where women are applying for asylum in order that such stereotyping is challenged.

> Female claimants who leave behind family members are not seen to be credible

The notion of the public/private dichotomy means that women who present cases that have components of persecution in both the public and the private spheres are seen as false. It is inconceivable that a woman, who is a mother and has perhaps been persecuted within the family for refusing a culturally sanctioned dress code, may also be a soldier in an army. Thus it is in women's interests to show either that they have been spectacularly victimised on the basis of gender and can therefore apply for asylum under the 'special women's' legislation, or that they are typical political dissidents and therefore entitled to asylum under standard refugee law. This simplistic division between public and private spheres works to undermine the complexity of women's role - both public and private. Although little is known in South Africa about how and why women apply for asylum, the creation and maintenance of the public /private dichotomy is an issue for women's advocates to consider if the experiences of women in other countries such as the Netherlands are to be avoided.

Of course, it is also important to recognise that these gendered assumptions, although thought to be universal, allow for the exclusion of women with familial practices that do not conform to this constructed norm. Bhabha and Shutter (1994) show how immigration legislation has been used in Britain to reinforce citizenship ideologies of who belongs and who does not. They trace the explicitly racist lines that this has followed. For example, they note how (mostly white) Falkland Islanders and citizens from Gibraltar have been granted British national status while no other dependent country has been given British national status. In this way, asylum law has worked quite transparently to exclude some race groups, in particular black Africans or Asians. Similarly, refugee legislation works (albeit implicitly) to exclude women. This exclusion is not, as I have indicated, universal. Women with particular experiences and women who perform their victim status in particular ways are likely to be awarded refugee status. This construction of 'appropriate' behaviours for women could work similarly to exclude women who fail to conform to either the 'typical political dissident' or 'special women's' case. The extent to which this dichotomy relies on notions of appropriate female behaviour marginalises women from contexts where this is not a required female attribute or where women have played several complex and intersecting roles.

There is a need to challenge the universal constructions of refugee women

Conclusion

This *article* has attempted to show that both nationalist discourses and the asylum policy that they inform rely heavily on the notion of the public (men's) sphere and the private (women's) sphere as binary opposites. Although women's movements have led to major changes in the asylum legislation and practice, these changes have yet to significantly challenge the public/private dichotomy on which the creation of additional gender guidelines to supplement asylum legislation rests. I would suggest that future feminist analyses need to challenge the binary of 'typical dissident' and 'special woman' if asylum legislation is to better serve women and to see all asylum cases as gendered ie recognise that men's activities in times of conflict draw on and reinforce women's assumed activities and vice versa.

In order to do this, there is a need to challenge the universal constructions of refugees (and refugee women) and the consequences thereof rather than essentialising identities and reifying these same categories (Hyndman, 1998). It is necessary to continually and critically reflect on the ways in which legislation that operates at a national (and often universal) level will inevitably privilege some identities over others. Although the South African gender guidelines call for recognition of women's varied roles, they (and indeed much refugee policy that targets women) espouse a universal humanism that recognises certain bases of difference, which is seen most clearly in the categorisation of possible kinds of women's involvement into those activities that fall within the public realm of 'typical political dissident' and those that fall within the category of 'special woman's case'. It is within this universal, humanist approach that most refugee policy currently exists.

As a broader example, Hyndman (1998) notes that the activities of the United Nations are based on the notion of a 'family of nations' or international community that embraces and celebrates cultural diversity. This ignores the inequalities among states and the power of western nations. Much of the attempt to promote tolerance of refugees is based on saying 'they are just like us'. However, in her analysis of UNHCR gender policy, Hyndman (1998:245) notes that:

if one approaches the relationships among cultural groups and the spaces they occupy not as harmonised 'us' and *'thems' living together, but as a series of unequal, uneven links between different subjects, then the question itself changes. Difference is not a question of accommodation but of connection.*

Gender, like other forms of differentiation, reflects the tensions between sameness and difference, including unity and diversity.

In a similar way, reference to the 'refugee community' is a way of indicating that certain individuals represent the universalised refugee experience, thus further silencing those marginalised within such a community. What is needed is an approach that continually reflects on the assumptions underlying the ideology of the male/female; public/private dichotomy. We need an approach to understanding refugee women from a perspective of multiplicity of difference rather than otherness (Ashfar, 1996). This requires a feminist analysis of the ways in which all asylum applications (men's and women's) reflect the public/private dichotomy and draw strength from it as well as a critique of unhelpful gendered notions - both feminist and anti-feminist - that have made these possible.

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Notes

1. Support for this *article* was generously provided by the African Gender Institute, University of Cape Town.
2. For a similar debate see Rose, 1990; 1993 and Hobsbawm, 1983.
3. Perhaps one of the clearest examples of the construction of common ancestry is that of the Hutu and Tutsi identity in Rwanda.
4. Some examples include the 1990 decision by the UNHCR executive committee that severe discrimination as outlined in CEDAW could form the basis for granting refugee status; the 1991 release by UNHCR of guidelines on the protection of refugee women; and the 1993 UNHCR resolution that asylum seekers who had been victims of sexual violence should be treated with particular sensitivity.
5. For a more detailed critique of the Refugees Act, see Crush and Williams, 2002.
6. In particular see the Australian, Dutch and Canadian gender guidelines.

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