

THE INTERNAL FLIGHT ALTERNATIVE: MOBILITY OF WOMEN LIMITED BY SPATIAL AND SOCIAL CONSTRAINTS

by Betty Ng, University of Washington Law School

I. INTRODUCTION

The barriers to asylum are numerous, and among them is the growing perception that asylum seekers have an “internal flight alternative.” The availability of an internal flight alternative has become an integral factor in determining an individual’s asylum claim with respect to whether or not the claimant indeed has a well-founded fear of countrywide persecution. If a claimant can reasonably seek refuge in another part of the country of origin, then that individual is deemed obligated to avail him/herself of an internal flight alternative, and is thus precluded from having a viable asylum claim.¹

However, determining the reasonableness of resettlement in an alternate area of one’s home country is not so simple when evaluating the gender-specific circumstances of an especially vulnerable subgroup of asylum seekers, namely women. While women account for the largest population of refugees worldwide, they remain few in number in securing claims for asylum.² Indeed, the barriers to asylum are numerous and weighty, but they often prove all the more burdensome for women. Women continue to encounter difficulties in legitimizing claims of persecution that are unique to their gender. Rape, female genital mutilation, domestic violence, deprivation of education and property, are only but a few examples of the numerous harms unique to the plight of female asylum seekers.³ The exclusion of “gender” as one of the five enumerated grounds of persecution under the Refugee Act

¹ See Hugo Storey, *Internal Flight Alternative Test: The Jurisprudence Re-examined*, 10 INT’L J. OF REFUGEE L. (1998).

² See Anjana Bahl, *Home is Where the Brute Lives: Asylum Law and Gender-Based Claims of Persecution*, 4 CARDOZO WOMEN’S L.J. 33, 34 (1997). Author notes: In 1993, it was estimated that the number of refugees was 20 million globally; more than 80 percent of that number were women and children. See also Joan Fitzpatrick, *The Gender Dimension of U.S. Immigration Policy*, 9 YALE J.L. & FEMINISM 23, 43-45 (1997).

³ *Id.*

accounts for one barrier.⁴ Often the social and cultural acceptance of female subjugation and/or the relegation of such treatment into the private sphere are equally daunting.⁵

The advent of an internal flight alternative, if applied in haste and without regard to the special spatial and social constraints upon women's mobility, will only exacerbate the current situation for women. For example, women in numerous parts of the world, often internally migrate only within the context of marriage, i.e. village exogamy.⁶ In one extreme instance, Afghani women under Taliban rule cannot leave their homes without permission and cannot ride alongside a man in a car unless he is her husband or a male relative.⁷ Thus, an internal flight alternative is made all the more impractical for women who originate from countries that operate in accordance with patriarchal norms where women occupy a subordinate role. In societies where women's land rights are non-existent or where women's work outside of the home is limited and devalued, women have little likelihood of economic survival.⁸

Aside from economic deprivation is the equally daunting reality of social deprivation that comes with relocating to another area of the country where one is devoid of all kinship ties. The absence of kinship ties is of great consequence to women who have come to rely heavily on this type of support, especially in the context of patriarchal societies where a woman's social sphere often exists only within the limited confines of her household and village.⁹ Social isolation of females can be further magnified by societal and cultural biases against women who are lone heads of household, who have suffered harms such as rape or domestic violence, and/or who have stood up against practices such as female genital mutilation.¹⁰

⁴ See Karen Musalo, *The Developing Jurisprudence of Gender-based Claims*, 1021 PLI/Corp 291, 293 (1997).

⁵ See Bahl, *supra* note 2, at 35.

⁶ SYLVIA CHANT, *GENDER AND MIGRATION IN DEVELOPING COUNTRIES*, 15 (1992).

⁷ See *The Taliban's War on Women*, NEW YORK TIMES EDITORIAL (Nov. 6, 1997).

⁸ See Kathryn J. Webber, *The Economic Future of Afghan Women: The Interaction Between Islamic Law and Muslim Culture*, 18 U. PA. J. INT'L ECON. L. 1049, 1052 (1997).

⁹ See Chant, *supra* note 6, at 133.

¹⁰ See Gregory A. Kelson, *Granting Political Asylum to Potential Victims of Female Circumcision*, 3 MICH. J. GENDER & L. 257, 297 (1995).

The above gender-based limitations point not only to the problem of lack of physical access to an internal flight alternative, but also to a lack of “meaningful” protection and existence once resettlement has taken place in a new area of the home country. James Hathaway, in *The Law of Refugee Status*, states that meaningful internal protection is premised upon the exercise of “basic norms of civil, political, and socio-economic human rights” where internal safety is neither “illusory” nor “unpredictable.”¹¹ Acquiring meaningful protection should rightfully extend beyond the simple idea of securing physical safety. Physical safety may be of little significance when cast against a backdrop of possible starvation, inability to function in society due to institutionalized discrimination against women, absence of support of family and friends, and countless crippling variables that affect a woman’s ability to have a meaningful existence in an internal flight alternative scenario.

The deprivation of these particular forms of association and societal functions strongly indicates that an internal flight alternative test should seek to adopt a more inclusive notion of effective protection that is coterminous with a human rights perspective.¹² Effective and meaningful protection, in other words, should assure not only physical safety, but also civil, political, and socio-economic human rights. In the context of female asylum seekers, such considerations naturally translate into a need to adopt a gender-sensitive perspective when evaluating the scope of meaningful protection available to a woman in the alternate place. Applying a human rights analysis that is sensitive to the unique constraints upon women will ensure that fundamental human rights (e.g. dignity, right to education and employment, and freedom from discrimination, etc.) will not have to be sacrificed when adjudging the availability of an internal flight alternative.

¹¹ See *Thirunavukkarasu v. Canada*, 109 D.L.R. 4th 682, 686 (1993) (Can.). In seeking to apply an appropriate internal flight alternative analysis, Justice Linden quotes Professor Hathaway’s position as follows: The logic of the internal protection principle must, however, be recognized to flow from the absence of a need for asylum abroad. It should be restricted in its application to persons who can genuinely access domestic protection, and for whom the reality of protection is meaningful. In situations where, for example, financial, logistical, or other barriers prevent the claimant from reaching internal safety; where the quality of internal protection fails to meet basic norms of civil, political, and socio-economic human rights; or where internal safety is otherwise illusory or unpredictable, state accountability for the harm is established and refugee status is appropriately recognized.

¹² See Storey, *supra* note 1, at 516. Hugo Storey observes: A notable theme in the case law on this personal dimension of the reasonableness criterion is the concern to link it closely with preservation of basic human dignity . . . this linkage is now more essential in ensuring that the Convention is given a necessary ‘contemporary definition,’ cast squarely in terms of a human rights paradigm.

The following paper will examine the importance of applying this human rights perspective in assessing the reasonableness of an internal flight alternative, especially with respect to female asylum seekers whose mobility and access to meaningful protection is limited by gender-specific constraints. The discussion will begin with an overview of the concept of an internal flight alternative, and in particular, the standard of reasonableness as applied to an internal flight alternative test. The following section will examine the particular spatial and social constraints upon women's mobility, which in turn speaks to the impracticability of relocation for many women. Also relevant to the discussion is the need for asylum officers to take into account these gender-based circumstances when applying an internal flight alternative to female asylum seekers. However, educating decision-makers on the unique circumstances of women may prove to be a difficult task. Obstacles to understanding the likely constraints on women are partly due to the lack of informational sources that properly address the specific constraints upon women. Often the task of uncovering hidden realities is made all the more difficult by the fact that many injustices against women are concealed under the guise of social, cultural, and religious norms. Moreover, the reliance on safe zones as an internal flight alternative also speaks to the ignorance of the harsh realities faced by women who are often subject to sexual abuse as victims and weapons of war.¹³ Given the vulnerabilities and the array of constraints that are unique to women, the most reliable safeguard to their protection is the guarantee that certain fundamental human rights shall not be ignored. Ultimately, this paper aims to advocate this point by proposing the adoption of a human rights approach in the internal flight alternative test so that women may be accorded a meaningful existence in the alternate home.

II. BACKGROUND

A. DIFFICULTIES IN INTERPRETING AN INTERNAL FLIGHT ALTERNATIVE

¹³ See J. Oloka-Onyango, *The Plight of the Larger Half: Human Rights, Gender Violence and the Legal Status of Refugee and Internally Displaced Women in Africa*, 24 DENV. J. INT'L L. & POL'Y 349, 384 (1996).

The concept of an internal flight alternative (hereafter IFA) is not explicitly defined in the text of the Convention on the Status of Refugees or in the U.S. immigration regulations. Its ambiguity has given rise to much difficulty in the creation and application of a well-grounded IFA test.¹⁴ However, the logic behind an IFA, i.e. claimant's ability to avail him/herself of the protection of the home country, has long been applied in the assessment of refugee claims.¹⁵ The Convention defines a refugee as an individual who, owing to a well-founded fear of persecution, is unable or unwilling to avail him/herself of the protection of the country of origin.¹⁶ Within this definition is the implicit concept of an IFA, whereby the existence of refuge within another region of the home country would effectively defeat a claim of countrywide persecution.¹⁷

The requirement that the risk of harm be countrywide has long been accepted under both U.S. and international law as a standard element of an applicant's claim to asylum.¹⁸ International protection has always been subsidiary to national protection because refugee law is premised on the principal that: "if an applicant is able to avail himself or herself of protection in any part of his or her country of origin, such applicant should not ordinarily need, or be entitled to, protection from another country."¹⁹ Therefore under this rationale, protection abroad is unwarranted if the persecution proves not to be countrywide because of the underlying assumption that the applicant can seek protection from the harm by relocating to another part of the country.²⁰

¹⁴ See Storey, *supra* note 1. This dilemma is the topic of examination by Storey in his article wherein he discusses the elements of an IFA test and provides a comparative glimpse of the international jurisprudence. Much of this paper will summarize the concept of reasonableness in the IFA test as discussed by Storey, in addition to the proposal towards applying a human rights approach to the IFA test.

¹⁵ *Id.* at 500.

¹⁶ *Id.*

¹⁷ See *supra* note 11. *Thirunavukkarasu v. Canada*, noted as a landmark case in international jurisprudence for articulating an IFA test. In an earlier Canadian case, *Rasartnam v. Canada*, Justice Mahoney stated that an IFA is "inherent" in the definition of a Convention refugee. Canadian guidelines support the position that a claimant is not considered a Convention refugee if there is an IFA because evidence of an IFA would be inconsistent with a finding of a well-founded fear of persecution.

¹⁸ Executive Office for Immigration Review; New Rules Regarding Procedures for Asylum and Withholding of Removal, 63 Fed.Reg. 31945, 31948 (1998) (to be codified at 8 C.F.R. §208).

¹⁹ *Id.*

²⁰ See *Matter of Acosta*, 19 I. & N. Dec. 211 (1985). The US Board of Immigration Appeals stated that international protection is inherent in the refugee concept provided that the claimant's country of origin was no longer safe. The criterion of inability or unwillingness to return to a particular 'country' implied that the claimant 'must do more than show a well-founded fear of persecution in a particular place . . . within a country; he must show that the threat of persecution exists for him countrywide.'

However, Paragraph 91 of the UNHCR Handbook presents a contrary view that the fear of persecution need not always be countrywide:

The fear of being persecuted need not always extend to the whole territory of the refugee's country of nationality. Thus in ethnic clashes or in cases of grave disturbances involving civil war conditions, persecution of a specific ethnic or national group may occur in only one part of the country. In such situations, a person will not be excluded from refugee status because he could have sought refuge in another part of the same country, if under all the circumstances it would not have been reasonable to expect him to do so.²¹

The above language advocates an individualistic approach to defining a refugee, which necessitates a case by case analysis of both objective and subjective circumstances.²²

B. A TWO-PRONG IFA TEST

The lack of explicit guidance and inconsistencies in the interpretation of an IFA has led to difficulties in establishing a well-defined IFA test. However, developments in international jurisprudence may serve as a valuable guide for the United States. For example, Canada, noted for its leading development of an IFA test, provides a sound model for our discussion.²³ Canada derived a two-prong IFA test from its caselaw, *Rasaratnam v. Canada* and *Thirunavukkarasu v. Canada*:

²¹ See UNHCR Handbook on Procedures and Criteria for Determining Refugee Status, Paragraph 91 (1979).

²² See GUY S. GOODWIN GILL, *THE REFUGEE IN INTERNATIONAL LAW* 6 (1983). Author notes: There is no reason in principle why the fear of persecution should relate to the whole of the asylum seeker's country of origin; for various reasons, it may be unreasonable to expect the asylum seeker to move internally, rather than to cross an international frontier. Different jurisdictions have thus held that the relevant criterion is the availability in fact of protection in another region, and the chance of maintaining some sort of social and economic existence.

²³ See Storey, *supra* note 1.

1. The Board must be satisfied on a balance of probabilities that there is no serious possibility of the claimant being persecuted in the part of the country to which it finds an IFA exists.
2. Moreover, conditions in the part of the country considered to be an IFA must be such that it would be not unreasonable, in all the circumstances, including those particular to the claimant, for him to seek refuge there.²⁴

C. THE CONCEPT OF REASONABLENESS AS APPLIED TO THE IFA TEST

A reasonableness standard is applied to both prongs of the IFA test. The concept of reasonableness is likewise a common thread in paragraph 91 of the UNHCR's discussion of an IFA whereby it notes that an individual should not be denied refugee status based on the fact that claimant could have sought refuge elsewhere within the home country if "under all circumstances it would not have been reasonable to expect him to do so."²⁵ This language re-appears in the text of the 1998 proposed amendments issued by the INS regarding asylum and withholding of removal.²⁶ The proposed regulations adopt the perspective of reasonableness as advocated by the UNHCR:

This proposed rule emphasizes, however, that an applicant should not be denied asylum based on the fact that he or she could avoid future persecution by relocating within the country in question unless it would be reasonable to expect him to do so. This approach is consistent with the position taken by the United Nations High Commissioner for Refugees . . . The proposed rule provides that internal relocation will not be considered reasonable if there is a reasonable possibility that the applicant would face other serious harm in the place of potential relocation. We intend that this "other serious bar" standard for determining when internal relocation is not reasonable refers to the same type of "other serious harm" that may warrant a humanitarian grant

²⁴ *Id.*

²⁵ See UNHCR, *supra* note 21.

²⁶ Executive Office for Immigration Review; New Rules Regarding Procedures for Asylum and Withholding of Removal, 63 Fed.Reg. 31945, 31948 (1998) (to be codified at 8 C.F.R. §208).

of asylum to an applicant who shows past persecution but who has no well-founded fear of future persecution.²⁷

Advocating the application of a reasonableness standard to an IFA is of particular importance to the gender-specific variables of a female asylum seeker. Reasonableness is not judged according to the criterion of a “reasonable man,” but is instead generally derived from an “individual-specific” perspective, which takes into account a claimant’s particular set of circumstances.²⁸ Reasonableness has also come to be equated with a “without undue hardship” characterization which is reflected in the requirement that the IFA be realistic and practical.²⁹ Such criteria require a two-fold application in assessing: 1) the particular circumstances of the applicant, and 2) the general situation of the home country.³⁰

III. ASSESSING A CLAIMANT’S PERSONAL SITUATION

A. THE GENDER DIMENSION

An analysis of a claimant’s personal situation involves a consideration of a wide range of variables such as age, gender, religion, political opinion, socio-economics, etc.³¹ Gender-sensitivity is especially important when assessing the viability of an IFA for a female asylum seeker.³² Again, the emphasis is on whether an IFA is

²⁷ *Id.* “Other serious harm” is described as “harm that may not be inflicted on account of race, religion, nationality, membership in a particular social group, or political opinion, but such harm would have to be so ‘serious’ as to equal the severity of persecution. We would not expect, for example, that mere economic disadvantage or the inability to practice one’s chosen profession would qualify as ‘other serious harm.’”

²⁸ *See* Storey, *supra* note 1, at 512-513. Also support for this proposition is further evidenced in the 1995 UNHCR Position Statement: Another consideration in assessing the qualification of ‘reasonable’ includes an evaluation of the subjective circumstances surrounding the alleged persecution such as the depth and quality of the fear itself. In some situations the subjective fear may be so great that the applicant, quite understandably, is unwilling to avail himself of the protection of his or her country regardless of the absence of real danger elsewhere in the country. This must remain a persuasive factor in the overall claim.

²⁹ *Id.* at 513.

³⁰ *Id.* at 514.

³¹ *Id.*

³² *See* Berta Esperanza Hernandez-Truyol, *Sex, Culture, and Rights: A Re/Conceptualization of Violence for the Twenty-First Century*, 60 ALB. L. REV. 607, 608 (1997).

reasonable given a woman's particular set of circumstances. In the context of internal migration, constraints upon women are far greater than those upon men - reflecting a reality that is "a virtually ubiquitous phenomenon in the developing world."³³ Often, female asylum seekers differ from their male counterparts in that relocation to another part of the home country translates into economic and social destitution. Worldwide, women are paid less than men.³⁴ They are relegated to reproductive functions and subjugated to second class-citizenship.³⁵ The likelihood of sustaining an autonomous existence given such constraints is often impractical for a lone female forced to relocate.

1. Limited Spatial and Social Mobility of Women in Patriarchal Societies

The disparity in women's mobility is most prevalent in patriarchal societies where women's autonomy is heavily restricted by cultural norms. The constraints upon women in Afghanistan are a prime example of the extreme institutionalized oppression of women. The Taliban, an Islamic fundamentalist group ruling most of Afghanistan, have earned notoriety for their severe decrees against women.³⁶ Presumably predicated on their Islamic teachings, the Taliban's moral code requires that when in public, women must be clothed in a "burqa," a full length garment that covers from head to toe, and must move about invisibly so as to not attract attention and arouse the passions of men.³⁷ Women who fail to abide by such decrees have been subject to extreme forms of punishment that stand in clear violation of international law standards.³⁸ Such acts of violence against women have included lashings for allowing one's veil to slip and amputation of one's thumb for wearing nail polish.³⁹

³³ See Chant, *supra* note 6, at 2. Chant addresses the issue of female mobility by providing eight migration case studies of women from various developing countries. However, her studies are primarily focused on "labour migration, i.e. migration associated with employment, income an livelihood, rather than migration for major political or environmental reasons (civil wars, natural disasters, famines and so on)."

³⁴ See Hernandez-Truyol, *supra* note 32.

³⁵ *Id.*

³⁶ See Anastasia Telesetsky, *In the Shadows and Behind the Veil: Women in Afghanistan Under Taliban Rule*, 13 BERKELEY WOMEN'S L.J. 293 (1998).

³⁷ *Id.*

³⁸ *Id.* at 294.

³⁹ *Id.*

The Taliban's efforts to diminish the existence of women in the public sphere is furthered by directives that forbid women from engaging in employment outside of the home unless employment is contained within an all-female work environment.⁴⁰ The Taliban's restriction of female employment forecloses vital access to financial support. The possibility of achieving economic and social independence is likewise stunted by Taliban efforts to deprive women of an education.⁴¹ Even home-based vocational schools that offered training in the art of carpet weaving and sewing were closed.⁴² Schools were only reopened on the condition that the Taliban would maintain control of their operations.⁴³ Women still have little hope of educational progress given that they are precluded from education after age eight and are limited to one course of study involving the Koran.⁴⁴

While the extremist actions of the Taliban have focused much of the media attention on Afghanistan, the unfortunate reality is that the marginalization and subordination of women abounds in many other parts of the world. For example, in Bangladesh, women's mobility is likewise subject to the constraints of patriarchal control and purdah (the practice of female seclusion).⁴⁵ The predominant association and confinement of women to domestic and reproductive roles accounts for a major barrier to women's mobility. Female migrants generally tend to be young and single, and have greater freedom to migrate since they are not yet bound to too many household responsibilities.⁴⁶ However, independent female migration decreases drastically with marriage, as women's freedom of mobility is curtailed by the introduction of added domestic responsibilities.⁴⁷

Despite evidence of gradual independent movement of women from rural-to-urban areas, internal migration of women is often limited to travels within the context of marriage.⁴⁸ The same is true for women in Ghana who continue to follow the tradition of migrating within the context of marriage, i.e. accompanying husband or seeking

⁴⁰ See Christopher R. Brauchli, *From a Wool-Sack*, 28-FEB COLO. L. 29 (1999).

⁴¹ *Id.*

⁴² *Id.*

⁴³ *Id.*

⁴⁴ *Id.*

⁴⁵ See Chant, *supra* note 6, at 27.

⁴⁶ *Id.* at 198.

⁴⁷ *Id.* at 44.

⁴⁸ *Id.*

to get married.⁴⁹ Women thus typically are identified as dependents who migrate solely in the company of a family unit.⁵⁰

The severing of kinship ties further exacerbates the plight of a single woman within the context of internal relocation.⁵¹ Women, more so than men, tend to form a greater network of support and reliance amongst relatives and friends.⁵² But migration to another area of the country often leaves a woman in social isolation and devoid of all support networks. This circumstance is of special consequence to women-headed households where lone mothers have come to rely on the support of relatives, e.g. caring for the children while she is at work.⁵³

Women who undergo independent migration outside the context of marriage are often found to be amongst the most impoverished because they face immense difficulties in surviving alone in a patriarchal society.⁵⁴ In Bangladesh, studies of independent female emigrants have revealed this small and rare band of women to be comprised of the “destitute, abandoned, or widowed.”⁵⁵ Single women of female headed households face even greater difficulties in supporting their dependents and commonly live below the poverty line.⁵⁶ Their economic vulnerability is compounded by the fact that they are not afforded the same luxuries as their male counterparts: “unlike male heads they have no ‘wives’ to perform non-market work on a full-time basis and/or who can supplement their incomes.”⁵⁷

⁴⁹ *Id.* at 26.

⁵⁰ *Id.* at 151.

⁵¹ *Id.* at 83.

⁵² *Id.* at 99. Chant notes that in Ghana: “The pattern of reliance on kin and ethnic ties in internal migration contrasts quite strongly with that of international migrants.”

⁵³ *Id.*

⁵⁴ *Id.* at 27.

⁵⁵ *Id.*

⁵⁶ *Id.* at 147. Chant describes the dismal conditions of a case study subject, “Fazilla,” a single mother who is the head of a household in Bangladesh: “Fazilla worked from 7 a.m. to 7 p.m. daily . . . Household income in cash and kind averaged only 56 percent of the slum poverty line and all household members were undernourished. The 4-year old daughter, Mimu, who was also blind, was severely malnourished.”

⁵⁷ See SLYVIA CHANT, WOMEN-HEADED HOUSEHOLDS 208 (1997).

Studies in Kenya similarly show women living alone (whether separated, divorced, or never married mothers) to be at greatest economic risk because of their limited access to resources.⁵⁸ Women in Sub-Saharan Africa lack land rights and thus lack access to a vital resource, especially given that the “predominately agrarian lifestyle in sub-Saharan Africa makes ownership of land the key to survival.”⁵⁹ The deprivation of land ownership essentially precludes all women from having any hopes of establishing economic autonomy, and thus helps to ensure the continuation of patriarchal control.

The perpetuation of patriarchal control is dominant even in countries such as Peru where women are accorded land rights.⁶⁰ Social norms predicated upon patriarchy nevertheless dictate that land is to be held by the women’s husband or passed down to the women’s father or brother upon widowhood.⁶¹ Similarly, Afghani women’s access to economic resources is illusory. While the Quranic law technically accords property rights to women through the form of dower, marriage maintenance, and inheritance, the reality is that social norms call for women to surrender their wealth to their patrilineal families.⁶²

The disproportionate distribution of wealth is reflected in the disproportionate effects of poverty upon women worldwide.⁶³ As a result, women are subjected to a lower quality of life than their male counterparts.⁶⁴ The plight of women who undergo economic marginalization has become so widespread that it has come to be coined as the “feminization of poverty.”⁶⁵ Ultimately, women’s mobility is greatly constrained by the effects of poverty because it sets up a substantial barrier to acquiring meaningful subsistence.

⁵⁸ See Chant, *supra* note 6, at 123.

⁵⁹ See Janet Sawaya, *Rights Education as a Means of Economic Empowerment for Women in Sub-Saharan Africa*, 2 GEO. J. ON FIGHTING POVERTY 329 (1995).

⁶⁰ See Chant, *supra* note 6, at 30.

⁶¹ *Id.* at 329

⁶² See Kathryn J. Webber, *The Economic Future of Afghan Women: The Interaction Between Islamic Law and Muslim Culture*, 18 U. PA. J. INT’L ECON. L. 1049 (1997).

⁶³ See Sawaya, *supra* note 59.

⁶⁴ *Id.*

⁶⁵ *Id.*

Despite such stark prospects, the once small number of independent female migrants is growing as women are increasingly engaging in rural-to-urban movement. While patriarchal constraints against women remain a cultural ideal in many societies, the reality of sustaining certain social controls over women are inevitably fading with time.⁶⁶ For example in Ghana, female education is contributing to this gradual shift.⁶⁷ And in Bangladesh, as in Thailand and Indonesia, a similar shift is taking place as a result of modern mechanization which has replaced much of the traditional employment roles of women in rural areas.⁶⁸ The displacement of women in agriculture has led to greater marginalization of peasant women in rural communities because agriculture traditionally offered the only form of economic work available to women.⁶⁹ Agricultural functions were once considered to be "traditional forms of secluded female employment."⁷⁰ But rural poverty and economic motivations have undermined patriarchal controls and has impelled women into "new and more visible areas of work outside the culturally prescribed areas."⁷¹

Despite the increase of women in movement from rural to urban areas, the reality is that women's economic situations only improve marginally in urban areas given that women's work tend to be undervalued and their range of jobs is limited by gender-segregated labor markets.⁷² Gender inequalities persist in urban areas as well as rural areas, and gender at times may even be a greater segregating factor in the workforce than class, education, and ethnicity.⁷³ Gender biases are implicit in socially constructed roles that have long associated women with domestic and reproductive tasks, and men with wage earning responsibilities.⁷⁴ The evident gender differentiation in jobs and wages is a testament to the continuing worldwide practice of sexual division of labor. Statistics of a city in Peru reveal that while men's job opportunities total nine, women had the choice of merely three, namely

⁶⁶ *Id.* at 146.

⁶⁷ *Id.* at 26.

⁶⁸ *Id.* at 28.

⁶⁹ *Id.* at 47.

⁷⁰ *Id.*

⁷¹ *Id.* at 146.

⁷² *Id.* at 36.

⁷³ *Id.* at 40.

⁷⁴ *Id.* at 61.

domestic service, cooking, and trade.⁷⁵ However, skills such as domestic service and cooking are devalued because they are presumed to be nothing more than “natural female attributes” developed from a young age.⁷⁶

And unfortunately, jobs in trade or service industries often translate into vulnerable activities such as prostitution - often described as a “migrant woman’s occupation.”⁷⁷ For example, a 1990 survey of Ghana revealed that over seventy five per cent of women in Abidjan, capital of the Ivory Coast, were prostitutes.⁷⁸ The sex industry is a dominant feature of many urban labor markets and often preys upon young female migrants from rural areas who are looking to become wage earners.⁷⁹ Though a high class prostitute had the potential of earning six to seven times the national minimum wage in Ghana,⁸⁰ follow-up studies of women in the sex industry revealed that monetary gains were short-lived and obtained at a heavy cost to their general well-being. These women commonly suffered from gonorrhea, syphilis, and AIDS, and their funds quickly dwindled as a result of high cost treatments.⁸¹ In most areas, women may not even have access to treatment given that health facilities are either inadequate or non-existent.⁸²

IV. ADOPTING A HUMAN RIGHTS APPROACH TO AN IFA.

A. SUSTAINING A MEANINGFUL EXISTENCE IN AN IFA

⁷⁵ *Id.* at 40.

⁷⁶ *Id.*

⁷⁷ *Id.* at 96.

⁷⁸ *Id.*

⁷⁹ *Id.* at 168. Survey of Thailand revealed the following: . . . estimates run as high as one million girls involved in the sex industry, and most come from rural backgrounds . . . peasant girls who migrated to Bangkok to become masseuses . . . They enter into this particular trade in response to the obligations which they feel they owe to their family as part of a customary role as earning members of society.

⁸⁰ *Id.* at 96. However, the surveyor noted that such high earnings were not across the board: The other types of prostitutes earn much less and their work situations are far less salubrious.

⁸¹ *Id.*

⁸² See Paula C. Johnson, *Danger in the Diaspora: Law, Culture and Violence Against Women of African Descent in the United States and South Africa*, 1 J. GENDER RACE & JUST. 471, 487 (1998).

In order to safeguard against the use of the IFA as a quick means to denying asylum claims, the test that is applied should not view protection as being limited to simply physical safety. Instead, it should broaden its scope to include a more effective concept of protection that considers civil, political, social and economic rights.⁸³ Only then will a claimant truly achieve meaningful protection in the context of an IFA.

The application of reasonableness to the IFA test serves as a good measuring stick of the actual level of “meaningful” protection that is accorded a claimant in an IFA.⁸⁴ Important to this analysis is whether an IFA would be reasonable given an individual’s particular set of circumstances.⁸⁵ As evidenced by the above discussion, the internal migration of women may expose women to greater vulnerability and heightened forms of exploitation than those previously encountered in her area of origin. Internal migration of women is bridled with countless social and economic disadvantages. While the INS recognizes that internal relocation is unreasonable if the applicant were to face “other serious harms” in the alternate place, it requires that “such harm would have to be so ‘serious’ as to equal the severity of persecution.”⁸⁶ The proposed INS regulations regarding asylum and withholding of removal specifically state that “mere economic disadvantage or the inability to practice one’s chosen profession” would not qualify as “other serious harm.”⁸⁷ Support for this view was expressed early on in the leading Canadian case, *Rasaratnam v. Canada*, whereby the court concluded that a claimant may not disregard an IFA on grounds of convenience, i.e. dislike of the weather in the safe area, absence of friends and relatives there, or inability to secure suitable work.⁸⁸

However, while the absence of kinship ties and lack of suitable job opportunities may be minor disadvantages to male migrants, such hardships often pose huge obstacles to a woman’s survival.⁸⁹ Men, for example, often do not

⁸³ Thirunavukkarasu, *supra* note 11 at 687.

⁸⁴ See Storey, *supra* note 1.

⁸⁵ *Id.*

⁸⁶ Executive Office for Immigration Review; New Rules Regarding Procedures for Asylum and Withholding of Removal, 63 Fed.Reg. 31945, 31948 (1998) (to be codified at 8 C.F.R. §208).

⁸⁷ *Id.*

⁸⁸ Thirunavukkarasu, *supra* note 11 at 688.

⁸⁹ See Chant, *supra* note 6 at 36.

possess the same level of closeness and dependency upon kinship systems as their female counter-parts because men in many societies are traditionally accorded greater freedoms outside of the home.⁹⁰ Women, meanwhile, continue to be bound by social and cultural constraints that deprive them of freedoms and options. Their narrow confines and lack of autonomy result in a dependency upon the support of immediate friends and kin.⁹¹ Women forced to relocate are stripped of this primary means of support, and are consequently subject to social isolation.⁹² This form of deprivation is particularly crippling to lone women in patriarchal societies where women are socially and economically dependent upon a male household figure. As previously described, women under Taliban rule cannot ride in a car alongside a man unless accompanied by a male relative,⁹³ and women remain dependent on men for economic survival because they often lack rights to land and resources.

Similarly, while the absence of a suitable job in the place of relocation may prove to be a temporary setback for a man, it may result in economic destitution for a female migrant. The economic marginalization of women is due to the fact that job opportunities for women worldwide are severely limited and compensation for women's labor is commonly undervalued and underpaid.⁹⁴ Women in Afghanistan, for example, have little likelihood of economic independence given that they are not even allowed to work outside of the home unless confined to an all-female work environment.⁹⁵ As a result of the lack of job opportunities open to women, female wage earners are often forced to accept whatever means of survival present themselves. Unfortunately, the sex industry has benefited from their vulnerable situation.⁹⁶ Relocation that ultimately results in placing women in such a crisis should not be viewed as a reasonable alternative for a female asylum seeker. Returning a woman to a situation in which she will be forced into prostitution to survive goes against human rights guarantees of dignity, freedom

⁹⁰ *Id.*

⁹¹ *Id.* at 133.

⁹² *Id.*

⁹³ See also in *Re B*, where an Indian woman was found to have had no reasonable relocation alternative in her home country because she would be returning to India alone and thus be expected to live in a culture that does not condone a woman living alone.

⁹⁴ See Berta Esperanza Hernandez-Truyol, *Sex, Culture, and Rights* . . . 60 ALB. L. REV. 607, 619 (1997).

⁹⁵ See Brauchli, *supra* note 40 at 30.

⁹⁶ See Chant *supra* note 6 at 168.

from sexual exploitation, and freedom from threats to her physical well being (i.e. susceptibility to sexually transmitted diseases).

As illustrated by the above examples, a human rights approach to an IFA provides greater protections for women by recognizing that indirect or alternate harms may exist within the proposed IFA.⁹⁷ The reality of protection within the IFA needs to be assessed from a gender-sensitive perspective. For example, claims for asylum have been denied on the grounds that unstable country conditions will not in themselves be sufficient in overcoming an IFA.⁹⁸ Likewise, high risk of exposure to random acts or threats of violence is equally unpersuasive in rebutting the existence of an IFA.⁹⁹ But accurate assessment of whether a country is capable of offering meaningful protection to women requires a sensitivity to the plight of females. This point is illustrated by the fact that women in unstable countries are more susceptible to random acts of violence because they are commonly used as weapons of war.¹⁰⁰ Rape of women has consequently come to be recognized as a powerful instrument of intimidation, but the incidences of violence against women are often dismissed as natural consequences of war.¹⁰¹ Women are thus cast aside as mere casualties caught in the unfortunate crossfire. However, the protection accorded to women is by no means meaningful under a human rights analysis if relocation involves the threat of sexual violence. Hugo Storey illustrates this point in advocating the application of human rights criteria to the test:

The reasons are clear, for only a human rights approach offers the definite prospect of a test that can be objectively justified in terms of universally recognized international standards. While many decision-makers might consider the real risk of rape in an IFA as ‘unduly harsh,’ to say the least, it carries far more

⁹⁷ Storey, *supra* note 1 at 528. Hugo Storey provides the following example of an indirect risk of persecution: “A woman claimant may not be able to show that she continues to be at direct risk of persecution by reason of her ethnic origin. But she may be able to show that in the IFA there is serious possibility that she would face sexual violence.” Hugo suggests that such an analysis is compatible with the idea that “an alternative is not present where the applicant would face threats elsewhere in his country of origin that are equivalent in intensity to those which initially led him to flee.

⁹⁸ *Id.*

⁹⁹ *Id.*

¹⁰⁰ See Oloka-Onoyan, *supra* note 13 at 384.

¹⁰¹ *Id.*

weight to affirm that rape constitutes a form of ‘torture or cruel inhuman degrading treatment or punishment’ contrary to article 7 of the International Covenant of Civil and Political Rights (ICCPR66). Equally, risks relating to harm to civil, political and socio-economic rights can be assessed according to the same international standards, in accordance with the Hathaway ‘hierarchy of rights’ classification or its equivalent, and these in turn are now given fuller content by way of the work of treaty-monitoring bodies, such as the Human Rights Committee or the Committee against Torture.”¹⁰²

Inadequate protection of women is also often exemplified in the fallacy of "safe zones." The mere availability of a safe zone should not automatically translate into a viable IFA option. Often, in reality, areas that have been designated as safe zones afford little protection due to the recurring episodes of violence caused by hostile forces.¹⁰³ From a human rights perspective, it is questionable whether an IFA in the form of a safe zone is truly capable of providing meaningful protection to its inhabitants. This concern is particularly salient when applied to female inhabitants who, as previously mentioned, are highly susceptible to sexual abuse by military forces in countries where political and social conditions are hostile and unstable.¹⁰⁴ Thus the term safe zones is a misnomer when applied to places that are likely to be subject to recurring risks of persecution. The fear of random attacks of violence is clearly inconsistent with any guarantees of durable protection.

Further human rights concerns are implicated when it becomes apparent that the creation of safe zones has in many respects facilitated the internal displacement of civilians through relocation.¹⁰⁵ Such actions are contrary to international human rights efforts to prevent individuals from being internally displaced. The existence of a safe

¹⁰² Storey, *supra* note 1 at 528.

¹⁰³ See Christopher M. Tiso, *Safe Haven Refugee Programs: A Method of Combating International Refugee Crisis*, 8 GEO. IMMIGR. L.J. 575, 584 (1994).

¹⁰⁴ *Id.*

¹⁰⁵ See PIRKKO KOURULA, BROADENING THE EDGES: REFUGEE DEFINITION AND INTERNATIONAL PROTECTION REVISITED 100-101. Author notes the potential effects of displacement caused by an IFA: Individuals returned to areas where they have not previously resided may enter another vicious circle of displacement and require international attention, for instance, as internally displaced. In the post-Cold War internal strife situations, the application of the concepts of ‘agents of persecution’ and ‘internal flight alternative’ is highly questionable. The spirit of the international refugee instruments requires that no double-victimization takes place.

zone within another part of the home country often masks the tragedy of the great numbers of internally displaced women who have no guarantees of durable protection.¹⁰⁶

A safe zone, set up to shield its inhabitants from harm, should constitute a reasonable IFA only if it can be proven that the United Nations is able to provide durable protection by properly defending the safe zone from hostile forces.¹⁰⁷ But even these efforts may not alleviate the plight of the internally displaced female. Protection from physical attack is only one aspect of a larger problem of survival, i.e., internally displaced women, more so than other refugees, often lack access to food, shelter, and health care.¹⁰⁸ Given the desperate realities of internally displaced women, "special protections that reflect their gender" should be set in place.¹⁰⁹ Only then can women hope to obtain any sense of durable and meaningful protection.

B. CULTURAL RELATIVISM VERSUS UNIVERSALITY OF HUMAN RIGHTS APPROACH

The above examples illustrate the importance of acknowledging that an IFA is often unreasonable given the unique circumstances and constraints upon women. However, certain social and cultural constraints against women are not accepted as rising to the level of persecution, but rather are considered acceptable under the social and cultural norms of the society. The gender-based claims of women are engulfed in an on-going debate over "cultural relativism" versus the "universality of human rights perspective."¹¹⁰ Advocates of cultural relativism support the view that outsiders have no valid basis for passing judgment on the cultural and religious practices of

¹⁰⁶ See Joan Fitzpatrick, *Refugee Panel Principal Paper: Flight From Asylum: Trends Toward Temporary "Refuge" and Local Responses to Forced Migrations*, 35 VA. J. INT'L L. 13, 65-66 (1994). See also Oloka-Onyango, *supra* note 13.

¹⁰⁷ Tiso, *supra* note 103.

¹⁰⁸ Oloka-Onyango, *supra* note 13.

¹⁰⁹ This point is advocated under UNHCR guidelines. See also Oloka-Onyango, *supra* note 13, at 383-384. Author notes the added constraints upon displaced and refugee women: Displaced and refugee women participate in a wide variety of activities that make their burden particularly acute and even more susceptible to violence. They care for the sick and elderly, they cater to the needs of children and daily household subsistence, they often bear sole responsibility, due to widowhood or separation from their spouse, for family maintenance; they forage for and provide food, water, fuel, health care, education, and cultural cohesion. Given the enormity of responsibilities and the vulnerability of their situation, displaced women obviously require heightened measures of protection.

¹¹⁰ See Karen Musalo, *Ruminations on In Re Kasinga: The Decision's Legacy*, 7 S. CAL. REV. L. & WOMEN'S STUD. 357, 370, (1998).

other groups.¹¹¹ Universalists, on the other hand, maintain that all persons are guaranteed fundamental human rights and that such protections cannot be overlooked even if they prove contrary to cultural and religious practices.¹¹²

The practice of female genital mutilation (hereafter FGM) provides a perfect example of the discourse that takes places between these two opposing perspectives.¹¹³ Culturalists support the practice of FGM and believe it to be beneficial for the female because the cultural practice signifies purity.¹¹⁴ Universalists meanwhile will argue that the pain inflicted upon the woman is considered a form of torture by international human rights standards.¹¹⁵ Karen Musalo, in the prominent case of *In re Kasinga*, whereby she successfully represented a female seeking asylum from the practice of FGM in her home country of Togo, advocates a universalist perspective: “Human rights law cannot be sidestepped by simply couching actions that torture mentally or physically in benevolent terms such as ‘curing’ or ‘treating’ the victims.”¹¹⁶

The Court in *In re Kasinga* ultimately declared FGM to be a form of persecution, and the U.S. subsequently adopted a statute that also recognized FGM as a form of persecution.¹¹⁷ However, while the debate over whether FGM constitutes persecution has apparently subsided, many other forms of harms against women are still engulfed in the on-going controversy. Naturally, proponents of international human rights are more inclined to support the universalist perspective which puts the human rights rationale above cultural justifications. However, a “cultural pluralist” concept within the context of human rights, as advocated by Berta Hernandez-Truyol, provides a sounder compromise between the two apparent extremes: “My position insists on the protection of culture as an independently protected right . . . this pluralist perspective rejects the use of culture as a pretext to

¹¹¹ *Id.*

¹¹² *Id.*

¹¹³ *Id.*

¹¹⁴ *Id.*

¹¹⁵ *Id.* at 364

¹¹⁶ *Id.*

¹¹⁷ *In re Kasinga*, 1996 WL 379826 (BIA 1996). See also Musalo, *supra* note 110 at 370.

subordinate or marginalize women, or relegate women to second-class citizenship. Ethnocentric, culturally biased notions of right and wrong, however, must be rejected.”¹¹⁸

Ultimately, greater application of human rights considerations should be worked into the IFA test in order to ensure optimal protection for women. The U.S. should model its policies after Canadian gender guidelines which have already taken a significant step in this direction.¹¹⁹ In 1993, Canada implemented guidelines that reflect a “protection-oriented approach which defines persecution in relation to international human rights standards,” thus recognizing that the unique harms suffered by women solely because of their sex can constitute persecution.¹²⁰ Moreover, harms imposed upon women on the basis of cultural or religious norms similarly constitute persecution if it violates the human rights of women.¹²¹ This standard proves to be especially valid in situations where women are presumed to have the protection of a state’s laws when in reality they are afforded little protection because of government and cultural complicity towards discrimination and violence against women. For example, the extensive oppression of women in Afghanistan (as evidenced by the deprivation of the right to education and employment, and severe physical punishment for failure to abide by Taliban’s moral code) provides a strong basis for the argument that actions of the Taliban are so severe as to constitute persecution.¹²²

¹¹⁸ See Truyol, *supra* note 32, at 620. Truyol further advocates the soundness of adopting a cultural pluralist perspective: “Significantly, international human rights instruments support this view of the role of culture in the international sphere. For example, while human rights documents consistently address culture as a basis upon which protections must be afforded, no one cites to culture as a basis upon which protections may be abridged. To the contrary, many documents support the idea that some aspects of culture, particularly those distinctions that are justified solely by status (such as sex), must cede to universal human rights.”

¹¹⁹ See Musalo, *supra* note 4 at 294. Musalo notes the efforts of the INS as compared to the Canadian guidelines: “The INS considerations adopt a tone similar to that of Canadian guidelines, although they do not go as far as the latter in referencing human rights standards as a framework for determining whether gender-specific harms constitute persecution. The INS considerations do recognize, however, the significance of the international human rights framework in evaluating gender claims.

¹²⁰ *Id.*

¹²¹ *Id.*

¹²² *Id.* Musalo cites to Matter of W-D to demonstrate the importance of fully detailing the nature and extent of oppression against women: “The more extensive and repressive the norm, the stronger the argument that they constitute the type of harm recognized under traditional asylum jurisprudence as persecution.” The immigration judge held that the restrictions imposed under Afghani women went beyond “mere discrimination.” The actions of the Taliban reduced the status of women to the “level of virtual slavery, and therefore constituted persecution in and of itself.”

C. ACCESS TO INFORMATION –REALITY OF COUNTRY CONDITIONS

However, not all actions against women are as recognizable and apparent as the constraints imposed by the Taliban. The problem remains that there are still many other harms suffered by women that are unlikely to meet the threshold of persecution, but that nevertheless greatly restrict women's physical and social mobility (e.g. migration only within the context of family, underpayment and devaluation of women's work, deprivation of kinship support, etc.). While certain restrictive laws and blatant discriminatory practices may be easy to detect, the hidden reality of certain social constraints may be less apparent from an outsider's perspective. It is thus imperative that asylum officers not only have knowledge of the human rights conditions in the women's country of origin, but also knowledge of the more elusive gender implications for women undergoing internal migration.

The key to accurately assessing the reasonableness of an IFA is dependent upon quality research and documentation of the general situation in the country of origin, including the political, social, and cultural climate of the area at issue.¹²³ However, practicable access to this type of information may prove to be a difficult task. While the political situation of a country may be determined through more accessible and visible sources such as television and newspapers, accounts of the social and cultural realities of the country of origin may be harder to come by. Education in this latter regard would require decision-makers to go beyond researching country conditions from a strict, legalistic perspective of what constitutes harm, and instead examine harm from a broader social-science perspective. Assessing the realities of societal conditions is further hampered by the temptation of decision-makers to turn a blind eye and readily accept certain discriminatory practices against women as being merely part of the cultural norm of the state. Ignorance as to the actual societal constraints and problems facing women is compounded by the fact that female asylum seekers often do not wish to recount their stories of

¹²³ Thirunavukkarasu, *supra* note 11 at 687. As expressed in *Rasaratnam v. Canada*, an IFA should be a "realistic, attainable option: Essentially, this means that the alternative place of safety must be realistically accessible to the claimant. Any barriers to getting there should be reasonably surmountable. The claimant cannot be required to encounter great physical danger or to undergo undue hardship in traveling thereof in staying there. For example, claimants should not be required to cross battle lines where fighting is going on at great risk to their lives in order to reach a place of safety. Similarly, claimants should not be compelled to hide out in an isolated region of their country, like a cave in the mountains, or in a desert or a jungle, if those are the only areas of internal safety available.

persecution either out of fear or embarrassment.¹²⁴ It is thus essential that decision-makers and advocates alike understand these barriers to information and recognize that a woman's silence does not translate into a lesser claim of persecution. Therefore, resourceful efforts should be made in locating other evidence to support what might otherwise be considered a weak claim given the "shortfalls" in the claimant's written and/or oral testimony.

In cases where the claimant has established past persecution, the INS bears the burden of producing evidence to show that an IFA is reasonable.¹²⁵ Conversely, in cases where the claimant has not established past persecution, the burden is upon the claimant to show that he/she is at risk of persecution in the country of origin and that there is no reasonable IFA.¹²⁶ The burden of producing documentary evidence as to the economic and regional conditions of the country in question may be particularly onerous and near impossible for a claimant whose lack of resources and possible confinement restricts access to such information. Asylum officers, however, may not occupy much of an advantage given that they too may lack access to sources of information that are relevant in helping them understand the likely constraints of relocating women. The 1990 UNHCR Executive Committee Conclusions regarding refugee women and international protection provides practical solutions to collecting data that will properly address the particular needs of refugee women:

a) Urges States, relevant United Nations organizations, as well as non-governmental organizations, as appropriate, to ensure that the needs and resources of refugee women are fully understood and integrated, to the extent possible, into their activities and programs and, to this end, to pursue among others, the following aims in promoting measures for improving the international protection of refugee women:

¹²⁴ See Bahl, *supra* note 2, at 72. The author emphasizes the need for decision-makers and advocates to adopt a gender-sensitive approach in their information gathering process: If there are any statistical materials, relating to rape, battery, murder, sexual assaults, and the failure of the legal system to respond to such offenses, they should be introduced into evidence. Victims of violence are often reluctant to narrate their experiences, or they may find great difficulty in doing so. This may be combined with feelings of humiliation and a lack of trust.

¹²⁵ Executive Office for Immigration Review, *supra* note 26.

¹²⁶ Executive Office for Immigration Review, *supra* note 26.

- i) Promote energetically the full and active participation of refugee women in the planning, implementation and evaluation/monitoring of all sectors of refugee programs;
- ii) Increase the representation of appropriately trained female staff across all levels of all organizations and entities which work in refugee programs and ensure direct access of refugee women to such staff;
- iii) Provide, wherever necessary, skilled female interviewers in procedures for the determination of refugee status and ensure appropriate access by women asylum seekers to such procedures, even when accompanied by male family members;
- iv) Ensure that all refugees and the staff of relevant organizations and authorities are fully aware of, and support, the rights, needs and resources of refugee women and take appropriate specific actions;
- v) Integrate considerations specific to the protection of refugee women into assistance activities from their inception, including when planning refugee camps and settlements, in order to be able to deter, detect and redress instances of physical and sexual abuse as well as other protection concerns at the earliest possible moment;
- vi) Extend professional and culturally appropriate gender-based counseling as well as other related services to refugee women who are victims of abuse;
- vii) Identify and prosecute persons who have committed crimes against refugee women and protect the victims of such crimes from reprisals;
- viii) Issue individual identification and/or registration documents to all refugee women;

- ix) Provide all refugee women and girls with effective and equitable access to basic services, including food, water and relief supplies, health and sanitation, education and skills training, and make wage-earning opportunities available to them;
- x) Provide for informed and active consent and participation of refugee women in individual decisions about durable solutions for them;
- xi) Ensure that resettlement programs makes special provisions for refugee women at risk need to address country conditions from a gender-sensitive perspective.¹²⁷

The above considerations provide a practical remedy to the problem of adequately assessing and fully understanding the unique constraints and needs of female refugees. The framework for acquiring accurate information regarding gender issues is most notably achieved by enlisting the aid of culturally trained female interviewers, as well as refugee women. Maintaining a staff that is sensitive to female issues and knowledgeable of the culture of the countries in question, and acquisition of first hand knowledge from refugee women, will provide greater assurance that the constraints upon women's social and spatial mobility will not be overlooked in the assessment of a reasonable IFA.

III. CONCLUSION

Though an IFA may be a quick and appealing means to alleviate large refugee flows by pointing to an alternative place of refuge within the country of origin, humanitarian considerations need to be applied to determine whether

¹²⁷ Statute of the Office of the United Nations High commissioner for Refugees
<http://www.unher.ch/refworld/refworld/legal/instrume/volrep/hersta_e.htm>.

or not certain fundamental interests are sacrificed as a result of relocation. It is important to be aware of the fact that women are likely to be disadvantaged by a lack of socio-economic power, which in turn makes independent survival immensely difficult. This reality is best exemplified by the subordination of women in patriarchal societies. An otherwise physically safe refuge is made impractical when the social and cultural norms that govern the place impose certain constraints on women that affect their ability to maintain a meaningful existence.

While some of the concerns regarding a viable IFA have been examined in this paper in the context of gender, there are countless variables to each applicant's circumstances that deserve similar attention. However, regardless of the context in which an IFA is examined, the best way to ensure effective protection is to assess the reasonableness of an IFA from a human rights perspective.

The August 1995 UNHCR 'Overview of Protection Issues' likewise advocates the application of a human rights approach to the IFA test:

The discussion about the contents of the protection available in an internal flight alternative have primarily focused on the aspects relating to physical safety. However, other aspects must be taken into consideration. Protection must be meaningful. A person should not be excluded merely because he could have sought refuge in another part of the same country, if under all circumstances it would not be reasonable to expect him to do so. In addition to security aspects, this would require that basic civil, political and socio-economic human rights of the individual would be accepted. Questions of an economic nature, such as access to suitable employment, are not strictly relevant to the availability of protection, although the inability to survive elsewhere in the country may be another compelling reason to grant international protection.¹²⁸

¹²⁸ Storey, *supra* note 1, at 530.

The UNHCR thus lends support to the proposition that protection should go beyond the mere limits of physical safety to include protections of civil, political, and socio-economic human rights. With this human rights agenda in mind, an IFA will render a sounder guarantee of providing protection that is truly meaningful.