

## FIELD REPORT

### Task Force Lobbies for Specific Language in Beijing Platform for Action

by Lesley Rein

At the UN Fourth World Conference on Women (see related article at page 1), Lauren Gilbert, Director of the Women and International Law Program at WCL, headed the NGO Human Rights Caucus' Task Force on Refugee, Migrant, and Internally Displaced Women which lobbied for the inclusion of specific language in the Beijing Platform for Action promoting the human rights of refugee, displaced, and migrant women.

The final Preparatory Committee (prepcom) meeting, held at UN headquarters in New York City under the auspices of the 39th Session of the Commission on the Status of Women (CSW) was to have finalized the Platform for Action to be adopted by government delegates at the Beijing Conference. Notwithstanding the gains achieved at the Vienna Conference on Human Rights in 1993 and in September 1994 at the International Conference on Population and Development in Cairo, women's human rights came under serious attack at the CSW meetings. As a result, these formal negotiations were largely unsuccessful in resolving many government differences, and by the end of the session,

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In early summer, Ambassador Geraldine Ferraro, U.S. representative to the UN Human Rights Commission, agreed to join the U.S. delegation, and assumed responsibility for negotiating the human rights language in the Platform for Action. In July 1995, she brought together a small group of experts from the NGO community, and at that meeting, Gilbert was asked by Ambassador Ferraro to formulate proposed language for the Platform for



Gilbert discusses provisions of Draft Platform for Action with Florence Butegwa of WILDAF at Regional Conference on Legal Status of Refugee and Internally Displaced Women in Africa, held in Ethiopia, August 1995.

Photo courtesy of Lauren Gilbert

Action which would deal with a wide range of issues relating to refugee and displaced women. Gilbert enlisted Deborah Anker, Director of the Harvard Immigration and Refugee Program, Nancy Kelly, Director of the Women Refugees Project at Harvard and Jenny Green of the Center for Constitutional Rights to develop the proposal, which was then presented to Ambassador Ferraro.

In the draft Platform for Action, there were references throughout to "refugee and [internally] displaced women." The Harvard-WCL proposal recommended a formulation that would refer to "refugee and other displaced women, including the internally displaced." The proposal recommended that the Platform address the partic-

ular circumstances of internally displaced women, who often are without national protection but who are denied international protection because they have not crossed an international border. It also recognized the plight of women who have fled their homeland, but who may not fit within the international definition of refugee. It recom-

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mended stronger language calling upon states to apply the 1951 Refugee Convention and the 1967 Protocol to incorporate the particular experiences of women subject to gender-related persecution. Finally, concerned that the right of return was being manipulated by many countries to justify forcible return of refugees to their homeland, the team recommended the inclusion of language reaffirming the right to *non-refoulement*, or non-return, in the same paragraph addressing the right of return.

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In August, government delegates agreed to hold informal meetings in New York, hoping to reconcile their differences over the language in the Platform for Action. These informal meetings differed from the prepcom in

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March in that the agreements reached technically were not binding on delegates, and thus, could not be incorporated into the draft Platform until the official meeting was opened in Beijing. They also differed from the prepcoms



Photo courtesy of Lauren Gilbert

Gilbert and other participants at Ethiopian Conference debate language regarding refugee and internally displaced women.

in that non-governmental organizations accredited to the Fourth World Conference did not have the same access to these meetings as they had in March. Only a select core of NGOs with UN Consultative Status were present. Thus, the results reached at the informals did not incorporate fully the concerns of the NGO community. Furthermore, there existed an informal understanding that agreements

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reached at this meeting would not be reopened at the Conference.

At the same time that these informal discussions were taking place in New York, Gilbert was one of twenty experts (most of whom were from Africa) participating in a Regional Conference on the Legal Status of Refugee and Internally Displaced Women in Africa. Co-

sponsored by UNIFEM, the UN Economic Commission for Africa, UNHCR and the Organization for African Unity, the meeting, held in Ethiopia, examined the effects of international law and regional and national legislation on internally displaced and refugee women in order to promote legal reforms for their protection and empowerment. Gilbert provided technical advice on the framework for the final conference document and the conclusions and recommendations in several critical areas. While recognizing that the promotion and protection of the human rights of refugee and displaced women lies primarily with States, the conference document em-

phasizes that this obligation extends to the United Nations and other international and regional intergovernmental bodies.

When Gilbert returned from Ethiopia, she discovered that government delegates at the August informals had arrived at a formulation in the Platform for Action that threatened the evolving rights of internally displaced persons. The document refers in many sections to "refugee women, other displaced women in need of international protection and the internally displaced," thus suggesting that internally displaced women were outside the scope of international protection because they had not crossed a border. She was advised not to challenge the gentleman's agreement reached in New York, out of fear that many of the positive gains reached in August would be undermined. She also was advised that the Norwegian Ambassador, Ragne Lund, had participated in a contact group, where this formulation was reached. Apparently, the European Union wished to limit the reference to other displaced women to those in need of international protection in order to limit its own obligations, while certain countries protective of their sovereignty, such as the Sudan, were against any reference to the internally displaced which might suggest their entitlement to international protection. In addition, the draft language of the Platform for Action

did not draw a link between the two substantive rights relating to the right to return to one's place of origin and the right of non-return. Gilbert proceeded to contact Ambassador Lund, members of the U.S. delegation, and many of the experts with whom she had worked in Ethiopia to raise concerns regarding the outcome of the informals.

In Beijing, as a member of the Human Rights Caucus, Gilbert was asked to create the Task Force on Refugee, Displaced and Migrant Women, and put together a team which would lobby to get the language changed. This team, which included Deborah Anker, Nancy Kelly, and other women from around the world, worked closely with other caucuses such as the African Women's Caucus, the Latin American Women's Caucus, and the Refugee Caucus. The Task Force met with delegates who had been involved with developing the unsatisfactory language, including Ambassador Lund and members of the U.S. delegation, to attempt to change the language prior to its official adoption at Beijing.

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The efforts of the Task Force to amend the previously-determined language were frustrated by the informal agreement among government delegates that language agreed upon during the informals would not be altered. They were, however, successful in arguing for language incorporating references to the right of *non-refoulement* alongside references to the right of return. Because this represents an established standard of international law, they were able to convince a number of governments to propose the adoption of this additional language. Although the legal advisor's office of the U.S. State Department was initially

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reluctant to adopt such language, Ambassador Ferraro, at the request of the Task Force, convinced the legal advisor to not oppose its adoption.

Gilbert views this as one of the most noteworthy achievements of the Task Force. "While the right of refugee and displaced women to a safe and voluntary return to their place of origin and to protection after return must be ensured, this right is meaningful only if the principles of *non-refoulement*, or non-return, are fully respected and strictly observed." The team also was successful in lobbying for language in the Platform for Action urging states to apply the Refugee Convention so as to incorporate the particular experiences of women subject to gender-related persecution.

In spite of laudable efforts by Ambassador Ragne Lund and vigorous lobbying by the Task Force and by



Photo Courtesy of Gail Lerner

Participants take informal break to discuss issues on last day of Beijing Conference.



Photo Courtesy of Gail Lerner

Migrant, Refugee, and Displaced Women and their advocates give a press conference at the International Conference Center, Beijing.

women's groups from Africa and Latin America, the agreements reached in August could not be undone. Nonetheless, thanks to Ambassador Lund's herculean efforts, in a section which previously had applied only to refugees, the document, reaffirming the principle of burden-sharing, calls upon states and intergovernmental organizations to "ensure" that the international community provide assistance to refugee, internally displaced and other displaced women and (in language suggesting the right of the internally displaced to international protection) to pro-

vide *protection and assistance* consistent with the human rights principle of non-discrimination. Gilbert advises, however, that work on the rights of internally displaced persons did not stop at the conference. "Now that the conference is over," she says, "attempts must be made to enforce these principles, both at the international and the domestic level. Although the Platform is not binding as a treaty, it has persuasive powers, and States, having reached a consensus at an international forum, can still be held politically accountable. This is a gradual process, but now we've developed a large network of legal experts and women's advocates united in working on behalf of refugee and internally displaced women around the world." 🌐

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publicize governmental infractions. The ILO may not represent the consummate vehicle for promoting and protecting human rights, but U.S. NGOs are likely to find it an effective medium through which to advance their agendas. American human rights groups generally have not resorted to the ILO supervisory machinery but, according to WCL Professor Robert Goldman, "it may be time for a change, since it is critical for such organizations to be aware of all available means by which enforcement of human rights standards is possible." As the record of the Committee on Freedom of Association demonstrates, it has indeed been effective, despite the reality that its power is based upon its investigative ability to shed light on governmental infractions. 🌐

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ment had been reached by the parties as to form and amount of reparations, the Court undertook to determine the scope of reparations and amount of indemnifications, as well as procedural costs and fees.

#### *7. Provisional Measures in the case: Carpio Nicolle v. Guatemala*

- **Facts:** In 1993, Jorge Carpio Nicolle, a candidate for the Guatemalan presidency, was assassinated.
- **Stage of the Proceedings:** The Court ratified urgent measures requested by the Commission for the protection of certain witnesses and a prosecutor. 🌐

\* The facts of this case can be found in the Winter 1995 issue of *The Human Rights Brief*.

