



News

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When "Safe Countries" aren't safe for women

This year, World Refugee Day focuses on the right to seek safety, while the Refugee Convention marks its 75th anniversary. At a time when European states increasingly use the language of "safety" to restrict access to asylum, this theme takes on even greater significance and invites reflection on what "safe" really means today.

Can a country truly be considered safe when protection against violence exists in law but not in practice? The idea behind the concept of Safe Country of Origin (SCO) may seem simple: countries considered "safe" are presumed to protect their citizens and safeguard fundamental rights. Yet the reality faced by women fleeing domestic and sexual violence is often far more complex. Assessing these claims requires looking beyond formal legal protections and examining whether violence is tolerated in practice and whether state authorities are genuinely willing and able to prevent it. When these realities are overlooked, presumptions of safety can undermine women's access to protection.

Drawing on a recent decision by the Territorial Commission of Catania (Commissione Territoriale per il Riconoscimento della Protezione Internazionale), later overturned by the Court of Messina, this blog post explores how presumptions of safety can shape asylum decisions in cases involving gender-based violence.

When the Presumption of Safety Shapes the Procedure

The case concerns a Tunisian woman who fled prolonged domestic and sexual violence after the death of her husband. Living with her in-laws, she became the target of escalating abuse. One brother-in-law repeatedly assaulted her, pressured her into marriage, and eventually raped her when she refused.

She left the household and reported him to the police, but the violence did not stop. The same man continued to harass her, sabotaging her attempts to find housing and work by contacting landlords and employers, and even threatening one of her children. Unable to rebuild her life in safety, she fled Tunisia with her young son.

The *Territorial Commission*, Italy's administrative asylum authority, rejected her claim, concluding that her account did not demonstrate a risk of serious harm upon return, and denying both refugee status and subsidiary protection. However, a closer look at the decision reveals that Tunisia's classification as a Safe Country of Origin heavily influenced the outcome.

Neglecting the Duty of Investigative Cooperation

Under European asylum law, the SCO concept is based on the assumption that nationals of certain countries are generally not exposed to persecution, torture, or other forms of serious harm Qualification Directive (2004/83/EC

↗). Yet this general presumption sits uneasily with the obligation to assess every asylum claim individually. This tension becomes particularly visible in the present case, where the Commission appeared to give greater weight to Tunisia's designation as a "safe" country than to the applicant's individual circumstances.

One significant aspect that was overlooked was the applicant's position as a widow living in her late husband's family home, where she held property-related rights. Women's rights organisations have documented pressures on widows to remarry within the husband's family — often described as levirate marriage— in order to preserve property within the male line and protect family reputation. This dimension of economic oppression was also evident in the fact that, despite reporting the situation to the authorities, her property rights were never effectively restored, and it was ultimately she, rather than her abuser, who was forced to leave the home.

Another striking example concerns the way the Commission interpreted the applicant's hesitation to disclose the rape. She explained that she initially struggled to speak about it because "it is a dishonour for a woman to say she has been abused" (Transcript, p.8). The Tunisian Association of Democratic Women has highlighted how women who report rape frequently face social stigma, compounded by legal obstacles and family rejection. Yet, instead of contextualizing her reluctance within these broader social realities, the Commission treated it as an inconsistency affecting her credibility.

The Commission failed to fulfil its duty of investigative cooperation, prioritising the general assumption of Tunisia's safety over a meaningful engagement with relevant Country of Origin Information (COI) concerning domestic and sexual violence. The result was a superficial and reductive assessment of the applicant's claim.

The Cost of a Superficial Assessment

In its decision, the Commission concluded that, because the applicant had left the family home, there was no clear reason why her brother-in-law would continue to harass her. On that basis, it found that she would not face a real risk upon return to Tunisia.

That conclusion rested on the assumption that, once the applicant had reported her brother-in-law to the authorities and distanced herself from the household, she was effectively safe. The existence of Tunisia’s 2017 law on violence against women — cited in the decision through the 2023 USDOS report — appeared to reinforce that view.

Yet a closer engagement with country-of-origin information would have revealed a far more complex reality. International reports continue to show that authorities frequently fail to investigate complaints effectively, provide adequate protection, or ensure access to shelters and support services. For many women, protection formally exists but remains inaccessible in practice.

These dynamics had also emerged during the interview itself, where the applicant described the stigma surrounding sexual violence, the lack of an effective response from the police, and the failure to restore her inheritance rights.

This is precisely the danger underlying the Safe Country of Origin logic. Once a country is presumed “safe”, decision-makers may also presume that protection is effective, sidelining the individualized assessment of the claim in favour of procedural efficiency in asylum decision-making. Yet, considering these circumstances, the applicant could hardly be considered

safe upon return, particularly as a victim of domestic violence in a context where effective state protection remains largely absent.

A Different View from the Court

When the case reached the Court of Messina, the outcome changed. The Court adopted a more gender-sensitive approach, considering the applicant's account credible and reaffirming a key principle of international protection law: serious harm may also be inflicted by non-state actors where state protection is ineffective. Referring to Article 6 of the Qualification Directive and UNHCR guidelines on gender-related persecution, the Court recognised that the applicant could not rely on effective protection in Tunisia and granted her *subsidiary protection*.

The Court justified this choice and not refugee status recognition, on the grounds that the pressures experienced by the applicant were rooted in social and cultural norms of which she had long been aware (Court of Messina, p.21). Yet it is precisely within the context of these entrenched gender norms that the applicant's refusal to marry her brother-in-law, the very reason she was raped, together with her decision to report the abuse, can be understood as acts of resistance against socially imposed expectations.

Viewed through the lens of Article 60 of the Istanbul Convention, the UNHCR Gender Guidelines, and Executive Committee Conclusion No. 39, the pressure faced by the applicant can therefore be understood not simply as the result of "cultural conditioning", but as persecution linked to her membership in a particular social group, namely, as a woman challenging socially imposed expectations.

Conclusion

Beyond the debate over refugee status or subsidiary protection, one aspect of the case remains particularly striking: the Territorial Commission rejected the applicant's claim in its entirety. Because Tunisia is classified as a Safe Country of Origin, the Commission could also have issued a deportation order (*ordine di rimpatrio*). The presence of the applicant's minor child was the only factor preventing that outcome.

Judicial review may sometimes correct flawed decisions, but access to courts is far from guaranteed in practice. Many migrants cannot afford legal representation, and free legal aid services are not available in all Italian cities. As a result, administrative decisions often become the final word in asylum procedures.

For this reason, a gender-sensitive approach to asylum adjudication must begin at the administrative stage itself. Decision-makers must fulfil their duty of investigative cooperation and properly contextualise women's experiences of violence, including when they emerge in countries formally labelled as "safe".

Otherwise, the pursuit of procedural efficiency risks overshadowing the individualized assessment at the heart of international protection law and rendering the realities of gender-based violence increasingly invisible within asylum procedures

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