

Women's Asylum News

Women's Project at Asylum Aid

IN THIS ISSUE

Celebrating 10 Years of The Women's Project p.1-8

- *History of The Women's Project*
by Hildegard Dumper
- *Battle for Justice*
by Monireh Moftizadeh
- *Fourteen years since I moved to the UK*
by Nadine Essombe
- *The Women's Project at Asylum Aid*
by Debora Singer

Special Feature Article: p.8-10

- *New Rules of Procedure for the Upper Tribunal and First-tier Tribunal*
by Catriona Jarvis

Significant Legal Issues p.10

National News p.11

International News p.12

UK Training and Events p.13

Charter Update p.14

To subscribe send your details to:

Claireb@asylumaid.org.uk.

All Asylum Aid publications are available at: www.asylumaid.org.uk

Please forward any information that you would like to include in the next edition of WAN to Claireb@asylumaid.org.uk



Celebrating 10 Years of the Women's Project at Asylum Aid

To mark this special anniversary, this month's Women's Asylum News is dedicated to celebrate, reflect and look to the future....with articles by:

- One of the founding members of the Refugee Women's Legal Group (RWLG) which set up the Refugee Women's Resource Project (RWRP).
- RWRP's first caseworker.
- An ex-client of RWRP.
- Asylum Aid's Policy and Research Manager
- The Immigration Judge who authored the Gender Guidelines of the Immigration Appellate Authority, also a founding member of RWLG.

A History of The Women's Project at Asylum Aid

Hildegard Dumper, Independent Researcher with a special interest in refugee women

Introduction and background

As part of celebrating the ten years since the Women's Project at Asylum Aid was set up, I have been asked to write about the history leading up to its establishment and why women's asylum issues continue to be a concern. This is a fascinating story, and a case study in how policy needs to be constantly monitored for its gender impact. It also coincides with the forty year anniversary of the birth of the woman's movement in this country.

Throughout the eighties and nineties, legislation was introduced to discourage asylum seekers from seeking refuge in the UK. This effectively withdrew a range of rights around employment and state support that refugees and asylum seekers had till then been able to access.

At the same time, I was becoming increasingly aware that whilst Britain, through DFID (Department for International Development), was a strong advocate for women's rights abroad, at home a double standard was emerging. It was becoming apparent that when women reached the shores of the UK their human rights were somehow less important than those of the indigenous population.

The gender policy context

In 1995, the analysis of refugee law from a feminist perspective was limited and had in effect, to be developed from scratch. There were three main issues needing consideration.

The first was the struggle refugee women faced in having their voices heard and their experiences included in policy development. Women have consistently made up about 30% of the main claims for asylum. These lower figures are more indicative of the greater obstacles to women's mobility than any indication that they suffer less persecution. An analysis of gender claims by nationality show that women from cultures in which they share the same freedom of movement with men, such as Zimbabweans, claim asylum in equal numbers to men. Those from countries such as Afghanistan where women are restricted from moving around without a male relative, the numbers are much reduced. The impact of fewer women within the system meant that refugee women had a weaker voice and found it hard to have their experiences taken seriously.

A second consideration was the way refugee women were seen as peripheral to the freedoms the 1951 Refugee Convention set out to protect. The system and whole conceptual framework was developed around the model of the male refugee. This made it difficult for women to enter the system to have their claims determined and when they did there was very little understanding about how their claims should be judged. Thus the reasons women may be persecuted, ranging from their connection with family members hounded by the state or for refusing to conform to dress codes were just not understood.

A third was the way that once they entered UK society they seemed to lose their human rights; they became invisible, and could not rely on the state to protect them from the abuse of rights such as abusive relationships, FGM, forced marriages or honour killing.

The United Nations World Conference on Women took place in Beijing in 1995. This launched the Platform for Action which detailed a range of measures that governments committed themselves to, including the UK government. Amongst them was one that required all new legislation to be assessed for its gender impact. There was an opportunity here to challenge the passing of any new legislation on the basis of its lack of gender analysis.

The Refugee Women's Legal Group (RWLG)

The first meeting of the RWLG was held in January 1996, a group of four women working out how we could offer a feminist perspective to the existing campaign against the introduction of what became the Asylum and Immigration Act of 1996. Others soon joined, bringing together representatives from the legal profession, refugee women, academics and activists. This proved to be a fruitful collaboration and the group went on amongst other activities, to produce a handbook on asylum law, aimed at expanding existing case law to include a more gendered interpretation and Gender Guidelines for the Determination of Asylum Claims in the UK, later to be used as the basis for UK guidelines.

The RWLG had always set out to be a network rather than a constituted organisation. With Asylum Aid having been one of the first supporters of the group, it was appropriate then for Asylum Aid, in 2000, to take up the baton and set up a service that would provide refugee women with the specialist legal support and advice they needed and provide case law support for legal practitioners. This became known as the Refugee Women's Resource Project.

What we learnt

Key to the successes achieved by the RWLG was that it brought together the skills and experiences of lawyers, academics and activists. Just as important was the active participation of refugee women. It was these women that pushed the boundaries of our remit further than the non-refugee women in the group would have gone. The presence of refugee women with strong backgrounds in the feminist human rights tradition gave the group its legitimacy. They pushed the group to take a tougher line on so called culturally sensitive practices, teaching the rest of the group a lesson in the application of international standards of human rights for all women.

I well remember one of the women raising the issue of 'temporary pleasure marriages' practiced in some parts of the Middle East where women are forced into a temporary marriage before being passed around other male members of the family. As we debated whether there was enough evidence to include it in the handbook, she insisted 'It really happens. You must include this' and went away to collect the evidence for us.

Why the Women's Project continues to be important

As we celebrate the last ten years of the Women's Project, it is timely to remind ourselves why a project like this is vital. The report produced by the Project in 2006 demonstrated how two years after the introduction of gender guidelines, immigration officials were still not implementing them in a systematic way.

Another report produced by the Women's Project, 'Every single woman', demonstrates that there is still a double standard operating; that refugee and asylum seeking women in the UK are being denied their rights to the protection of the courts and legal system that women in the UK receive.

The refugee experience is still mainly viewed through a masculine paradigm. Women's claims are still being assessed on the basis of male experiences of persecution and not women's. If women's experiences are not looked at separately from men's we miss the way policy can impact on them differently due to their particular role in society as mothers and carers as well as activists in their own right.

The Women's Project plays a vital role in both helping women enter the asylum determination system and monitoring the impact of policy on individual refugee women. Through its casework and data collection it offers the evidence which can further our understanding of how policy impacts on men and women differently. It has evolved into a centre of excellence, making its knowledge and resources available to the wider public for research and campaigning purposes. It alerts the rest of us to the injustices occurring on our shores and provides the moral imperative to do something about it.

Battle for Justice

Monireh Moftizadeh, first RWRP Caseworker

The Refugee Women's Resource Project was founded at Asylum Aid in 2000 in order to assist women asylum seekers to gain protection in the UK from serious human rights violations. With a caseworker, an outreach worker and a research team, RWRP intended to raise awareness on the situation and the needs of women refugees, through training, campaign and publications. Enlightening refugee women on their rights and about the asylum system was at the heart of the Project. An advisory committee consisting of refugee women and experts working in the field directed the Project.

I was the first RWRP caseworker, but years of casework at Asylum Aid had made me familiar with the obstacles in obtaining asylum, particularly for women with gender-related and gender-specific fear of persecution. I knew that the Home Office often misinterpreted the 1951 Refugee Convention to refuse asylum claims and the lack of gender concept in the Convention allowed them to deny asylum to women. When in 1996, I received a letter from the Refugee Women's Legal Group about writing a legal handbook on women asylum seekers, it sounded promising in finding a solution to the problem. I therefore decided to help them and this led to the formation of RWRP.

Achieving the aims of the Project did not look simple to us, because the unfair immigration laws were threatening asylum seekers and had created evident hostility for women to claim asylum. The asylum procedures were absolutely gender biased and the 'dispersal' policy and new support arrangements were causing problems for women in accessing legal advice. Due to the lack of evidence on the violation of the rights of women in home countries establishing women's asylum claim was unfeasible, so we had a battle ahead to bring justice to them. Yet, we were determined and dedicated enough to start the struggle!

Following the launch of RWRP many women asylum seekers approached RWRP. People with different professions who knew about the Project referred or brought them to us as well. Different claims enabled us to identify various problems that women refugees had experienced and the issues became topics for research and campaign. In the first year, RWRP acted for 70 women on their asylum claims and 560 women had one-off or outreach advice. In addition to major pieces of research, Women's Asylum News the monthly bulletin covering issues about refugee women in the UK and elsewhere was circulated widely.

Assisting women asylum seekers was easier if they sought our advice before submitting the claim. Information on asylum procedures would give them confidence to go through the process. However, some women approached RWRP when they had already passed through several stages of the claim without legal advice, or been ill-advised and misrepresented by non-qualified people. Occasionally, they were under the threat of removal or deportation. After several long interview sessions with each client, sometimes at her accommodation or detention centre in or outside London, detailed representations with documentary evidence would be sent to Home Office. Despite this, due to the lack of gender sensitivity in the system, some claims would be refused. The research team and I would then assist the Asylum Aid's appeals worker to take the claim through another phase of the battle. Nevertheless, we had success with some claims finally. I am aware that establishing women's asylum claim is still difficult, but in those days most claims were unprecedented and supportive evidence was very scarce. Each successful case would therefore facilitate further claims. Albeit, we had some claims that were allowed without going through the appeal system. The first allowed FGM claim made our client say, *"I hope that my case will be a landmark for others."*

Apart from the effort to encourage women to talk about their experiences, especially domestic and sexual violence; it was a continuous struggle to make the immigration officials understand the concept of gender sensitive interviewing process. Despite our request for female interviewing officer and interpreter, men would turn up at interviews! I would then support our client to refuse to proceed with the interview.

Diversity of the Home Office decision on similar claims proved to me that they had no unique and fair policy on the determination of asylum claims and made adhoc decisions. Whilst a claim with a fear of persecution because of domestic violence and lack of state protection from a Middle Eastern country brought asylum to a client, another client from the same country with similar problem was allowed to stay in the UK only on an exceptional basis and a claim by a woman with the experience of brutal domestic violence and a fear of imminent honour killing was blatantly refused! The insulting tone of the refusal letter made our client very upset and she said, *'we accept that they do not want refugees, but why do they insult us?'* I had no answer for her.

The asylum process in the UK is not fully committed to the Refugee Convention and the human rights agreements and this should be constantly challenged. I wish to emphasis here the plea that I made to the UNHCR Global Consultation Conference in December 2001 that, violations of the Convention have to be monitored more seriously than they are at present!

Fourteen years since I moved to the UK as an asylum seeker

Nadine Essombe, refugee

I would like to share with you at this very important anniversary and what it is to live in London as an asylum seeker. Writing today at 10 years of the Women's Project is to celebrate this organisation called Asylum Aid that took me in when everybody said *"sorry, you need to go back to Cameroon"*.

I arrived in the UK in 1996, seeking asylum. I lived with friends, then in a refuge in Islington. With the women at the refuge we understood that it was important to go to college to meet people because this would help us forget all our sorrows. My immigration matter went very fast and I was refused asylum. I offered to help in an organisation as a volunteer. There I could help with clients speaking French, translate some of the work this organisation was offering and act as a receptionist. Being single at that time I could offer as much time as possible because this was keeping me busy and helping me forget the reality of my asylum case. One day the director called me and he ask me if I would be interested in attending a Human Rights course since he knew that this was my field of interest. I jumped and said me!!!! Studying human rights? I was so thrilled. Two weeks before my course, I was sent a deportation later; I was so sad, because this was a dream come and suddenly I have to face deportation. I was able to start the course but one morning right in the middle of the course, exactly two weeks after the course started I received the visit of fifteen police men and women plus three immigration officers.

I would like to emphasize the reason why I'm telling this part of my story is to let Asylum Seekers know about their rights. Many times we put ourselves in bad situations with the Authority because we don't know our rights. These officers knock on my door, I didn't run or refused to open the door, I learned two days before on the course that it is an offence to run or refuse to open your door to an immigration officer.

I opened my door, I told them who I am and was taken to a police station, then to a detention centre in Gatwick. My Human Rights course and campaigning activities came to my rescue I suppose because I was released the same day. At this point I needed more help to stay in the UK. The next day I was referred to Asylum Aid, this was in 2000. My first appointment at Asylum Aid was so warm and reassuring, almost as if every fear evaporated for a moment. To my surprise all my visits felt the same. I remember thinking about my caseworker, what can such a warm, gentle, calm lady do to these monsters that are threatening to deport me. But I quickly realised that the fight is not on the height or gender, the real fight reside in the ability to work efficiently with your client, and for me, to build a good relationship of trust and mutual respect. I also have another issue that was domestic violence and constant threat from my partner, so coming to see my caseworker at Asylum Aid was like a therapy. She had a way of starting her conversation, because things were not all the time pleasant to speak about, but she knew how to tell me things and especially show me a way forward.

We had a good relationship. Any time there was a new law or regulation we were happy to talk about it on the phone or see each other.

My son was born with a condition called Hirschprung's disease, a congenital disorder of the bowel. As a single mother asylum seeker with two children I lived in fear, distress and anxiety of both my status and my son's condition which has resulted today in a stomach bag and a total removal of his big bowel. In 2003 when the amnesty was announced I was in the hospital with my son. I remember that we were planning to put in another evidence for my case. It was such a happy ending. When I spoke to my caseworker she said "*the fight is over*". As a woman asylum seeker in London, I have become very active, working with women and children, addressing most of the problems we face in London and in the UK. As a Francophone with the language barrier, I called myself lucky because I seized all opportunity I was given regardless of my son's condition. I recently got married to a wonderful man and believe my activities as a woman's advocate came to my rescue. So I would say, women go and be active and keep the dream up.

As a community champion, I'm celebrating people working hard at The Women's Project at Asylum Aid, because it takes men and women to run the project and to be devoted for justice.

The Women's Project at Asylum Aid – an overview

Debora Singer, Policy and Research Manager, Asylum Aid

A young woman, Zahra, comes to the UK to escape domestic violence by her husband. Her country has no laws against such violence and the police provide no protection. Whilst in the UK Zahra gets pregnant and has a baby. She knows her family will consider the fact she has an illegitimate child as an insult to their honour. She also knows that, as a single mother, she cannot live away from her family as she will be ostracised. Her asylum claim has been refused; the Immigration Judge recognises that she cannot return to her family but says she can go and live elsewhere in her country.

This is the type of complex asylum claim that the Refugee Women's Resource Project (RWRP) was set up to deal with ten years ago. It was able to tackle this issue from a number of different angles starting with providing Zahra with legal advice and representing her at her appeal. Such advice had to be sensitive to the fact that Zahra might find it difficult to disclose everything that had happened to her. The persecution she had experienced, or risked if she returned, had to be analysed and interpreted within the Refugee Convention. Country information that covered the prevalence of gender persecution, such as domestic violence, in Zahra's country of origin had to be obtained. In addition there was a need to research the social and economic conditions for women in her country to determine whether the Immigration Judge's suggestion of internal relocation was unduly harsh. But that was just the start.

The lack of country of origin information from a gender perspective led to the production of country information resources, initially with publications on domestic violence in a range of countries and finally in partnership with the Electronic Immigration Network (EIN) which now hosts women's pages providing up to date country information required by legal representatives when taking women's cases.

Through consideration of cases like Zahra's, themes emerged that required further research. What evidence is there of the UK Border Agency implementing its own gender guidelines? Does the suggestion of internal relocation have a disproportionate effect on women? What are women's experiences of immigration detention? Are the cases of trafficked women being dealt with fairly? Original research publications all conclude with policy recommendations.

These policy recommendations are followed up with sustained and focused policy development, lobbying and campaigning work. A range of agencies - the UK Border Agency, the appeals tribunal,

legal representatives, the European Commission – all need to be influenced and persuaded to interpret the Refugee Convention in a gender sensitive way and to value and implement gender guidelines. Tools used include the UN Convention on Women (CEDAW), the Gender Equality Duty and the cross-Governmental strategy to End Violence against Women and Girls. As well as these formal mechanisms, there has been creative input with leaflets to empower women, a play to raise awareness of the barriers women face when claiming asylum and a campaign film to show that women should receive the same standards of treatment as women settled in the UK in similar situations.

The RWRP was set up because of the perceived gap in provision and expertise regarding women's asylum claims. Since being initiated by the Refugee Women's Legal Group in 2000, the Women's Project continues to fulfil its original functions. However, as the Project reaches its tenth birthday we are changing its name. Because of concern that clients found our name confusing, it is now **the Women's Project at Asylum Aid**.

The Women's Project's most ambitious campaign so far is the *Charter of Rights of Women Seeking Asylum* which now boasts over 200 endorsers. The first recommendation in the Charter is for a member of the senior management team to be appointed to provide a strategic lead on gender issues. At a meeting to discuss the Every Single Woman campaign, launched recently under the Charter, the Chief Executive of the UK Border Agency, Lin Homer, agreed to this recommendation. She has now appointed Matthew Coats, Head of Immigration, to take on this role.

Unfortunately, even after a decade, the Women's Project is not in a position to say "mission accomplished". Despite some progress, women who claim asylum after experiencing gender-specific persecution or human rights abuses in their countries of origin are still poorly served by the refugee protection systems operated in the UK and Europe. Institutional gender discrimination continues to distort policy and decision making on asylum and our work to improve the asylum determination process for women continues.

However, a major change in the past decade is that ours is no longer the only project speaking up on women's matters. Whilst the Women's Project at Asylum Aid remains the key NGO focusing on women's asylum issues, many stakeholders in the refugee and women's sectors are now also focusing on the needs of women seeking asylum. The *Charter* has provided a way to bring these stakeholders together, to coordinate our efforts, to share our ideas and expertise and to provide a united response. As the Project's second decade unfolds, we will continue to provide sensitive and expert legal advice to women asylum seekers (half of Asylum Aid's clients are women), to research and disseminate information on topics relevant to them, to lobby and campaign using the evidence gleaned from our casework and research, and to make the most of the expertise and knowledge in the refugee and women's sectors to ensure that women's issues are recognised and progressed. This is because we believe that every single woman, including women seeking protection from human rights abuses abroad, has the right to be treated with fairness, dignity and respect.

Women's Asylum News would like to thank Hildegard, Monireh, Nadine and Debora for writing these articles

Special Feature Article:**New Rules of Procedure for the Upper Tribunal and First-tier Tribunal: Best Practice and Procedures**

Catriona Jarvis, Senior Immigration Judge of the Upper Tribunal, Immigration and Asylum Chamber writes the following special feature article discussing the Practice Direction of the Senior President relating to Children, Vulnerable and Sensitive Witnesses.

Congratulations are due to the Refugee Women's Resource Project for their work over the last ten years. In thinking about that time, I am reminded that it is ten years this November that the IAA Gender Guidelines were published. Readers may recall that some time after the Asylum and Immigration Tribunal (AIT) came into being in 2005, it was announced that the IAA Gender Guidelines were not the policy of the AIT and, although the then President, the late Mr Justice Hodge, made clear that there was absolutely nothing to prevent individuals from placing reliance upon the IAA Gender Guidelines in argument in any given case, subject, of course to any changes in the law that there might have been since 2000, that appears to have happened only rarely.

On 15 February 2010 there was yet another change in that the AIT is no longer with us and we are instead part of the overarching Tribunal Service as the First Tier and Upper Tribunal, Immigration and Asylum Chamber. It follows that the Practice Direction of the Senior President relating to Children, Vulnerable and Sensitive Witnesses, of 3 November 2008 now applies to these two new bodies. It may therefore, be a very good time to look again at best practice and procedure in order to decide how, within these two new tiers, to enable parties and witnesses to best participate in proceedings and judges to receive the best evidence possible to assist them in their judicial decision making, in compliance with that Practice Direction.

The Vulnerable Persons Working Party of the International Association of Refugee Law Judges (IARLJ) has produced a set of draft guidelines on vulnerable persons. Guidance already exists in different forms for judges in all jurisdictions on the best ways of ensuring a fair hearing when a vulnerable person appears as a party or witness. The Judicial Studies Board's Equal Treatment Bench Book is one such source of advice, looking at a number of different areas of vulnerability, such as disability and children. The characteristics and needs of such witnesses must, of course, be taken into account by every tribunal judge in order to ensure fair treatment, and the production of these draft guidelines provides a good opportunity to look again at best practice in identifying the needs of those individuals who face particular difficulties at hearings and making appropriate procedural accommodations as soon as practicable, in order to ensure a fair hearing.

General principles**Definition**

For the purposes of the guidelines, a vulnerable person is defined as one whose 'ability to understand and effectively present their case or fully participate in proceedings may be impaired, because of intrinsic factors (who they are) and/or because of extrinsic factors (their experiences)'. Such persons may include, but are not limited to, persons with mental illness or learning difficulties, people with disabilities, children, the elderly, survivors of torture, survivors of genocide and crimes against humanity, women and men who have suffered gender-related harm, trafficked persons, persons in detention, and those in poor health.

A person may be identified as vulnerable based on alleged underlying facts which are also central to the determination of their case. An identification of vulnerability is made for the purpose of procedural accommodations only and does not indicate acceptance of the alleged underlying facts. The judge should ensure that participants are given an opportunity to address any evidence used to assess the merits of the case in the usual ways. The credibility and probative value of the evidence is then assessed solely by the judge.

The judge should remain neutral, compassionate and objective during proceedings, and should use body language, gestures and verbal tone that attempt to put the vulnerable person at ease. The cultural and religious background of the vulnerable person may inform the approach to be taken. The judge should also ensure that all parties act in a similar manner.

Procedural accommodations

A judge has a broad discretion to tailor procedures and, where appropriate and permitted by law, may accommodate a person's vulnerability by various means, including:

- Ensuring the case is heard first on the day of the hearing.
- Allowing the vulnerable person to provide evidence by video conference or other technological means.
- Allowing a vulnerable person to be supported during a hearing.
- Creating an informal setting for the hearing.
- Varying the order of questioning.
- Excluding non-parties from the hearing room.
- Providing a judge or panel of a particular gender.
- Providing an interpreter of a particular gender.
- Explaining processes in terms appropriate to the individual's needs and understanding, inviting them to ask questions at any time and reviewing their understanding at regular intervals during the hearing.

Public and private hearings

Not all hearings are held in public and not all decisions are published. Different jurisdictions have different procedural rules on this issue. The judge should consider whether whole or part of the hearing should be held in private so that the witness's ability to give personal and intimate evidence is not affected. This may include the removal of family members where requested by the claimant. The decision whether to conduct a hearing in private should be made initially in closed session, with representations being submitted by the parties and those directly affected by the decision. The decision issued at the end of the private hearing may then be anonymised or redacted.

Representation

If it is judged that the vulnerable person is unable to appreciate the nature of the proceedings, the judge should ensure that they are facilitated to find a legal representative and, if necessary, an appropriate adult or guardian. Appointment of a designated representative is of importance – that is, one with the competency legally to present the case.

Questioning

A judge should ensure that all those who appear at hearings are questioned with sensitivity and respect, to reduce the risk of unnecessary distress. This obligation is all the more important in the case of vulnerable persons. The oral examination of a vulnerable person should be relevant to disputed issues in the matter and be no longer than necessary. The parties should be asked to agree, and the judge ensure adherence to the parameters of questioning necessary, taking into account the needs of the vulnerable person and the fair determination of the hearing to all parties.

Conclusion

The new rules of procedure for the Upper Tribunal and First-tier Tribunal include an overriding objective, which is 'to deal with cases fairly and justly'. In both sets of rules, dealing with cases fairly and justly is detailed as including 'ensuring, so far as practicable, that the parties are able to participate fully in the proceedings'. The time is right, therefore, to reconsider the sources of advice available to the tribunals judiciary in meeting the objective, and to recognise the importance of the IARLJ draft framework document in achieving this objective.

The views expressed are those of the judge and not the Tribunal. See also the article in the Spring 2009 of the Tribunals Journal of the Judicial Studies Board on which this short piece is based.

The **draft** Vulnerable Persons Guidelines can be found at www.iarlj.org

The draft guidelines refer throughout to 'judges', which includes all judicial and quasi-judicial decision-makers who deal with appeals.

See:

www.tribunals.gov.uk/Tribunals/Documents/Rules/Childvulnerableadultandsensitivewitnesses.pdf

Women's Asylum News would like to sincerely thank Catriona Jarvis for writing this special feature article

Significant Legal Issues

Right to Respect for Private Life: HIV/AIDS

JA (Ivory Coast) & Anor v Secretary of State for the Home Department
[2009] EWCA Civ 1353

This case examines the circumstances in which the right to respect for private life guaranteed by Article 8 of the European Convention on Human Rights can prevent removal of two women who had been in the UK for a significant period and had previously been granted permission to stay in order to receive treatment for HIV.

The decision is important because it identifies there are circumstances where removing such individuals can be a disproportionate interference with that right. Previously UK caselaw on this issue had focused upon whether removal of people living with HIV/AIDS to a country where they were not able to access the healthcare that they required to keep them alive constituted inhuman and degrading treatment prohibited by Article 3 of the Convention. The House of Lords, which was then the highest court in the UK, had held in *N v. Secretary of State for the Home Department [2005] UKHL 31* that Article 3 ECHR would only prevent removal in the most exceptional circumstances (for example where death was imminent and there was no possibility of accessing palliative care). This decision had been confirmed by the European Court of Human Rights.

The cases that the Court of Appeal considered were different. Both women had come to the UK lawfully (as a visitor and a student respectively) and remained for a significant period. The reason that both appellants had previously been allowed to remain was because the UK was deemed to have assumed responsibility for them, in accordance with the Home Office policy that was then in force. However, after the decision in *N* Home Office policy was changed, and both appellants were refused further leave to remain.

The Court of Appeal considered the fact that both appellants had lawfully remained in the UK meant that their situations were different from the appellant in *N*. In particular, it meant that they established a private life in the UK and the fact that the basis for their extended lawful stay was based on a history of compassionate grant and renewal of leave to remain for treatment. Furthermore, the Court considered that the effect of those grants combined with the effect that that the proposed refusal and discontinuance of treatment would have on their private life should be considered.

In applying this assessment to each case, the Court came to different conclusions. In the second appellant's case, the fact that the Tribunal had heard the case and found that she had sufficient skills and experience to obtain work in Tanzania to finance her treatment along with family support, meant that it would not be disproportionate to remove her. However, in the first appellant's case, the Court concluded that the case should be remitted to the Tribunal for it to consider the appellant's present

situation and for them to make an up to date assessment of the availability of ARV treatment in Ivory Coast and whether JA could access it. She would not have to meet the high threshold set out in *N* to succeed. Her case needed to be looked at on its facts from the perspective of Article 8 ECHR which might mandate a different outcome when her circumstances were properly considered.

National News

Fast-tracked unfairness: Detention and Denial of Women Asylum Seekers in the UK

The latest Human Rights Watch report documents how women asylum seekers with complex claims are being routed into a system designed for much simpler claims. The women are held in detention largely for the UK's administrative convenience, have very little time to prepare a legal case, and have only a few days to appeal if refused. But the claims often involve such sensitive and difficult issues as sexual violence, female genital mutilation, trafficking, and domestic abuse. There is little time for lawyers or other representatives to build the trust with their clients needed for them to explain their claims or to obtain medical or other evidence needed to verify them.

The report is based on research conducted in the UK in 2009, in locations such as Yarl's Wood Immigration Removal Centre. It describes a screening procedure with guidelines too vague for the border agents who make the decisions about how a woman's case will be handled to assess properly the complexity of many women's cases and whether they can be handled adequately in the fast track system. It concludes that, despite the UK Border Agency's own gender guidelines, designed to explain particular considerations around gender-related claims, some Border Agency staff lack a basic understanding of the special issues often involved in women's asylum claims.

Once routed into the fast track, women with complex cases have far too little time to prepare their case, obtain medical or other expert opinions, and establish the credibility of their claims. This is especially true in cases involving rape or abuse, where women may only be able to come forward with relevant information late in the process, or not at all, because they may be traumatized by their experience, frightened by the procedure, or simply embarrassed to tell an official.

Since 2005, over 2,000 women have gone through the fast track process, all held at Yarl's Wood Immigration Removal Centre near Bedford. About 96 percent of the claimants were refused on first hearing and 91 percent of appeals were refused. The report recommends that the Home Office should put more rigorous procedures into effect immediately to ensure that people with complex claims are not routed into the fast track procedure, including:

- In the suitability guidance note for routing into this system, add complex gender-related persecution claims, to the list of "claims unlikely to be accepted into fast track."
- Clarify the criteria for routing a person through fast track, including the factors that would enable a "quick" decision on a claim.

For full report: <http://www.hrw.org/en/reports/2010/02/24/fast-tracked-unfairness-0>

Related news

Hunger strike at Yarl's Wood

The Black Women's Rape Action Project reports that women detained at Yarl's Wood Immigration Removal Centre have been on hunger strike since 5th February 2010 protesting against their detention and conditions in detention.

Meg Hillier, Parliamentary Under-Secretary, has written to every MP denying that women are still on hunger strike: "*Whilst there are a small number of detainees refusing formal meals from the canteen, they are buying food from the centre's shop and vending machines and having food delivered by visitors.*" This is strongly denied by the women at Yarl's Wood.

A Parliamentary Early Day Motion (number 919) has been lodged requesting that:

"HM Inspector of Prisons urgently carries out an independent investigation into reports of violence, mistreatment and racist abuse from guards, being kettled for over five hours in a hallway, denied access to toilets and water and locked out in the freezing cold, which women have made, and a moratorium on all removals and deportations of the women who took part in the hunger strike pending the results of that investigation".

For more information see: <http://womenagainstrape.net/homepage>

International News

Iraq: Ban on FGM urged

A recent survey reveals the majority of women in Kurdistan, northern Iraq, have undergone Female Genital Mutilation. Medical and women's rights groups are campaigning to end the practice and a series of education awareness programmes have been launched. The 18 month study conducted by German relief organisation *Wadi* interviewed over 1600 women and girls over the age of 14. The report states on average 74% of women have undergone FGM in Kurdistan and some regions, including the largely rural area of Garmany have a higher prevalence rate, with 81% of women and girls experiencing FGM.

Dr Basher Khalil al-Hadad, head of the Kurdistan parliament's religious affairs committee says "*You must understand, Kurdistan has a conservative society. It is difficult for many mullahs to talk about FGM openly.....But since most of the people who practice FGM say it is because of religion, I think it is our duty to talk to people about it.*"

The subject of FGM is considered taboo in Kurdistan and a recent bill introduced by parliament to address the issue has been postponed indefinitely as politicians appear reluctant to address it. Tara Alif, a lawyer and women's rights activist states "*I went to parliament with a group of women. First, they said they had more important issues to deal with, and then they said they didn't want to talk about it with us. We brought a film for them to watch and they were too shy to watch it...I can't call Kurdish society modern because we still have problems like FGM. This is a big obstacle to improving society.*"

For full article see:

<http://www.wluml.org/node/5970>

Malaysia: Calls to stop cruel treatment of women

Amnesty International are calling on the Malaysian government to stop the caning of women. Three Muslim women were recently sentenced to caning after being convicted of having extra marital affairs. The women were found guilty under the Sharia court system which has jurisdiction over Muslims in family law. This is the first time women have been caned for this offence. Donna Guest, Deputy Director of Amnesty International's Asia-Pacific programme said: "*The caning of these three women is just the tip of the iceberg... Since 2002 the Malaysian authorities have caned over 35,000 people,*

mostly non-Malaysians for immigration offenses....These thousands of cases point to an epidemic of caning in Malaysia....The Malaysian government needs to abolish this cruel and degrading punishment, no matter what the offence."

For full article see:

<http://www.amnesty.org/en/news-and-updates/news/malaysia-urged-end-brutal-punishments-after-women-caned-20100218>

UK Training and Events

Still Human Still Here

Amnesty International UK, Human Rights Action Centre, London
Tuesday 23rd March – 6pm; Free event

This panel discussion brings together a group of experts to discuss how the UK's system for providing protection to refugees could be improved to make it more humane and more efficient.

The speakers will be: Dr John Sentamu, the Archbishop of York; Jan Shaw, Amnesty International and Chair of Still Human Still Here; Sir Nicholas Young, Chief Executive of the British Red Cross and Donna Covey, Chief Executive of the Refugee Council

Contributions from the panellists will be followed by an audience and Question and Answer discussion. The event will be followed by a drinks reception from 7 - 8.00pm

Copies of Still Human Still Here's new report, ***At the end of the line - restoring the integrity of the UK's asylum system***, will be available free of charge on the evening.

For further information see: http://www.amnesty.org.uk/events_details.asp?ID=1513

Training provided by Rights of Women

Stop the Traffic: Protecting and Supporting Trafficked Women across the UK
29th March – Sheffield, The Circle

This course will help participants to understand the criminal and immigration laws that apply to women who have been trafficked into the UK for sexual exploitation. The course will enable you to learn to navigate and assess the National Referral Mechanism and other measures implemented by the government for the protection of victims of trafficking. One year on from the UK's ratification of the Council of Europe's Convention on Action Against Trafficking in Human Beings, this one day course, in partnership with the Poppy Project, will enable you to identify and support women who have been trafficked and covers elements of both criminal and asylum law.

Each participant will receive a copy of **Pathways to Justice: BMER women, violence and the law** and a copy of **From Report to Court: A handbook for adult survivors of sexual violence**

For further information and booking details please see: <http://www.rightsofwomen.org.uk/training.php#>

Or email: training@row.org.uk

Charter of rights of women seeking asylum



Endorsements: 205

Google group membership: 114

International Women's Day is a symbol of women's united action for global equality and to inspire women to achieve their full potential. To celebrate here is a snapshot of how organisations that support the *Charter* have promoted the 2010 theme of

Equal rights, equal opportunities: progress for all

The Refugee Council hosted a celebration in their Day Centre in Brixton. As well as inspiring speeches from women refugees, there were songs, dance, games and food from around the globe. This provided an opportunity for women from different cultures to mingle and celebrate their diversity.

The **Northern Refugee Centre** facilitated a workshop entitled '*How do women in other countries make their voices heard?*' This was held at a women-only event hosted by the Worker's Educational Association in Sheffield. Women from around the world spoke about their lives and issues that affect them, and there was an exploration of the work of the United Nations Commission for the Status of Women.

The **UK Border Agency** hosted a meeting of the Home Office Women's Network to celebrate women working within the agency and to showcase some of the joint progress made in relation to addressing gender issues in the asylum system. It was sponsored by Matthew Coats, the newly appointed Gender Champion for the UKBA. The speakers included Meg Hillier, Parliamentary Under Secretary of State for the Home Office and there was a viewing of the *Every Single Woman* film.

For more information on the Charter and the *Every Single Woman* campaign, please go to www.asylumaid.org.uk/charter

If your organisation would like to endorse the charter, please send an email simply stating the name of your organisation to charter@asylumaid.org.uk

Donations to Asylum Aid

Asylum Aid provides free legal advice and representation to asylum-seekers and refugees, and campaigns for their rights. We rely on the generosity of individuals to help us continue our work. Your support would be greatly appreciated. A gift of just £5 each month could support our free legal advice line.

Name

Address:

Tel:

Email

I wish to make a gift of £

Standing order form

The Manager, (Bank Branch): Address of Bank:
Please pay Asylum Aid the sum of £ each month/quarter/year (delete as appropriate) until further notice

Please debit my account number: Sort code: Starting on (date):
Name:

Address:

Postcode:

Signature:

Date:

[FOR OFFICIAL USE ONLY]
To: The Cooperative Bank, 80 Cornhill, London EC3V 3NJ. Sort code: 08 02 28 Account no: 65281262

Gift Aid declaration Asylum Aid - Registered Charity no. 328729

If you are a UK taxpayer, Asylum Aid can claim back 28p for every £1 you donate, making your donation worth almost a third more at no extra cost to you. Please complete and return this declaration.

Name

Address

I would like Asylum Aid to treat my donations as Gift Aid donations (please circle) YES / NO

Signature

Date

Your declaration covers all donations you have made to Asylum Aid since April 2000 and any donations you might choose to make hereafter. You must have paid as much tax (or more) in this year as we will reclaim on your donation.

To support Asylum Aid's work, please complete and return this form to: Asylum Aid, Club Union House, 253-254 Upper Street, London, N1 1RY

Any views expressed in this publication are those of the authors. Any legal information in this bulletin is intended as a general guide only, and should not be used as a substitute for legal advice. Any contributions from, or references to, external sources (including website links), agencies or individuals do not necessarily reflect the views of Asylum Aid nor receive our endorsement.

Produced by the Women's Project at Asylum Aid
(for more information on this issue, please contact: Claire Bennett)

Asylum Aid
Club Union House
253-254 Upper Street
London N1 1RY

Tel: 020 7354 9631
Fax: 020 7354 5620
Email: Claireb@asylumaid.org.uk

www.asylumaid.org.uk

