

Women's Asylum News

Women's Project at Asylum Aid

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Women seeking asylum in Merseyside: Access to support for survivors of sexual violence in conflict and civil unrest

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This article outlines preliminary PhD findings from research in Merseyside exploring access to sexual violence support for women seeking asylum. These stem from three years of activist research and empirical data including 13 in-depth interviews with key organisations in Merseyside, such as rape counsellors, asylum support workers and agency managers in non-governmental organisations (NGOs), police and the United Kingdom Border Agency,¹ as well as a three part oral history with Hawwi,² an Ethiopian rape survivor seeking asylum in Merseyside.

Sexual Violence in Conflict – A Background

A significant proportion of states and countries in conflict experience or perpetrate sexual violence against women at epidemic levels.³ Likewise, women seeking asylum in the UK have often fled areas

¹ Due to a clause placed on the interview consent form, this article does not include interview responses from the UK Border Agency. All non-governmental organisations remain anonymous.

² 'Hawwi' is a pseudonym which she has chosen.

³ See the Sexual Violence Research Initiative at <http://www.svri.org/emergencies.htm> last accessed 23/06/11

of conflict and civil unrest.⁴ Interview respondents in Merseyside identified 22 countries of origin in describing the women they most often work with or support, including the Democratic Republic of Congo, Sri Lanka, Eritrea and Afghanistan,⁵ where sexual violence is or has recently been used as a tool of war and oppression.

The impacts of sexual violence in any setting are vast. Survivors of sexual violence may experience emotional and psychological distress, depression, suicidal feelings, detachment and disassociation amongst many others. Physical effects can range from transmission of STIs or HIV to fistulae or other injuries resultant from further forms of torture. Social effects can include economic costs, familial strain, social exclusion and marginalisation or forced migration.

In response, the international recognition of the targeting of women during conflict has sought to raise global consciousness regarding the vulnerability of women in conflict, post-conflict, during migration or displacement, and whilst seeking asylum. Various forms of legislation have been developed globally, with perhaps the most marked being UN Security Council Resolution 1325, which identified sexual violence in conflict as a threat to international security and, more recently in 2008, Resolution 1820 which finally identified rape in conflict as a Crime Against Humanity. More locally, the UK Border Agency (UKBA) introduced *Gender Issues in the Asylum Claim* in 2004 (updated 2010) as a measure to recognise the gender specific forms of violence that women seeking asylum in the UK may have experienced. Despite such measures, the prevalence of sexual violence in conflict has not dwindled. In the UK, significant portions of women seeking asylum have witnessed and/or survived rape, gang rape, sexual humiliation and public abuse.

Outline of findings – Merseyside as a case study

Until 2009, Liverpool was one of two UK entry points to claim asylum. Although this has since been centralised to Croydon, Liverpool remains a key area for dispersal and where the UKBA holds a 'further submissions unit' for failed asylum applicants in the city centre. Despite this, little research on these functions has been undertaken in Liverpool, and local voluntary agencies working in the areas of asylum and/or sexual violence receive little and in some cases no official funding. In Merseyside, many women in the asylum system who have been subjected to abuse in conflict have been retaliatory targets for their husband's political affiliations in their country of origin, for being part of the political opposition themselves, or as part of increases in violence.

Women's Experiences in Merseyside

Interview respondents from non government and support agencies in the voluntary sector referred to the experiences of rape survivors whom they had counselled in Merseyside, as they had interpreted them from women's accounts; these were consistent with findings from wider research⁶ and Hawwi's oral history. Support workers and counsellors described instances of abuse including gang rape by soldiers and militia, rape by border guards and smuggling agents (to which Hawwi was subject) and further forms of torture including whipping with electric cables and sexual humiliation, such as rape with objects. Respondents noted:

If women are tortured in detention it's mostly sexual because that's the way to violate a woman.

⁴ See The Medical Foundation for the Care of Victims of Torture, (2009) *Justice Denied*, available at http://justice-denied.torturecare.org.uk/Justice_Denied.pdf accessed 10/12/09

⁵ The full Country of Origin list given by interview respondents includes China, Sri Lanka, Zimbabwe, Cameroon, South Africa, Iraq, Iran, Uganda, Democratic Republic of Congo, Pakistan, Afghanistan, Malawi, Nigeria, Sudan, Nigeria, Guinea, Ukraine, Georgia, Ivory Coast, Eritrea, Somalia and Ethiopia.

⁶ Including Medical Foundation (ibid) *Justice denied*; Refugee Council (2010) *Rape and sexual Violence: The Experiences of Refugee Women in the UK* available at <http://www.refugeecouncil.org.uk/policy/briefings/2010/womensbriefing> last accessed 7/01/11 and Asylum Aid (2011) *Unsustainable: The Quality of Initial Decision Making in Women's Asylum Claims* available at <http://www.asylumaid.org.uk/data/files/publications/151/UnsustainableWEB.pdf> accessed 11/02/11

Many of the women who visit here have come from rape camps in Central Africa. They've been raped more times than I can even imagine.

As is often the case, sexual violence survivors can internalise shame and be subjected to ostracism and disbelief. A factor concerning support workers in Merseyside is a tendency for the UK Border Agency to disbelieve women who disclose sexual violence at or after their initial interview. One counsellor argued:

It's the culture of disbelief and for a lot of women, having to claim asylum and go through the process of what happened to them, and to tell someone who's their case owner about what happened and then disbelieving. I mean, the Home Office disbelieve everything.

The form of support offered by the organisation from which respondents worked was fully reflected in each respondent's interview. For example, counsellors from rape support organisations adhered to woman-centred approaches, acknowledging that it is unlikely and often unusual for women to disclose instances of sexual violence to people they do not know, as is often expected by the UK Border Agency where non-disclosure can result in disbelief. Furthermore, rape support workers and counsellors recognised the ongoing emotional impact of rape rather than focussing primarily on the physical, whereas police and the UKBA emphasised the problem of truth behind disclosure where there is no physical evidence. As has long been identified in feminist literature and legal practice,⁷ proving rape can be very difficult. One respondent echoed these sentiments:

To prove that you were raped is extremely difficult as well. And sometimes a lot of the stories are, you know, off words really... it's the case owner or the case worker who chooses to believe whether the story is convincing enough and whether it has consistency.

This form of subjectivity can be extremely problematic considering the prevalence of rape myths in society generally, but becomes even more difficult if the same caseowner does not follow the entire case, an issue seen in the asylum system in Merseyside and the UK more generally.⁸ To highlight one example, Hawwi entered the UK asylum system in 2009, after fleeing political persecution in Ethiopia and rape on the border. She remained in the asylum system for almost two years, and in that time her application was stalled by various errors. For example, initially she was not given an asylum identity card, she did not know she needed a solicitor and was not allocated one, and she was not allocated a caseowner for almost six months. Her asylum application was refused before reports requested by the UKBA had been received. Furthermore, Hawwi's caseowner changed so often that during her first asylum appeal, the Home Office Presenting Officer informed the judge that he had not had full access to read her file before delivering the appeal.

During the oral history, Hawwi constantly gives thanks to the UK Border Agency for providing food and accommodation, but states:

Asylum is really, it's not, not, not at all an acceptable thing for anyone... this is the last decision that you do in your lifetime. You don't have any alternative.

Areas of concern and recommendations

This research determines that important gaps exist in access to sexual violence support in Merseyside for women seeking asylum, and identifies four main areas of concern. Firstly, despite changes in legislation, problems still remain in ensuring implementation of gendered measures in the asylum system. In working with women, it is consistently evident that sensitivity is lacking in the

⁷ See, for example, London Rape Crisis Centre (1984) *Sexual Violence: The Reality for Women* London: Women's Press; Carol Smart (1989) *Feminism and the Power of Law* London: Routledge; Jennifer Temkin (1997) Plus Ça Change: Reporting Rape in the 1990s in *British Journal of Criminology* vol. 37, no.4

⁸ Ref Asylum Aid (ibid) *Unsustainable*

interview process, as well as decision making. Furthermore, despite wider discourses and research highlighting the emotional and psychological effects of rape, emphasis of 'proof of rape' still often lies in physical evidence. Considering that many women receive no obvious ongoing physical injuries or that physical injuries sustained may have healed, this can undermine women's experiences and result in disbelief. Although the UK Border Agency contact non-governmental agencies supporting individuals in some cases, cases continue to arise whereby external reports are not properly considered before the asylum appeal hearing.

Secondly, there continues to be a lack of interpreters available for sexual violence support sessions within and for voluntary organisations due to poor funding and stretched resources. Furthermore, when interpreters are provided, it is usually on a rota basis and over the phone, affecting the opportunity for interpretation by a woman. As evidenced by the Women's Resource Centre and Rape Crisis, amongst other organisations, this can significantly reduce the likelihood of creating a safe space for women to disclose sexual violence and therefore engage in support. This is further reduced in poorly funded organisations where space is communal, eroding confidentiality, and where the organisation or agency does not adopt a gendered lens appropriate to the form of support otherwise available. Similar issues in interpretation were also evident in women's experiences of their asylum claim or appeal through the UKBA, which was clear in interviews and activist research with women in the asylum system. Again, this understandably decreases the likelihood of disclosure and increases the possibility of disbelief if women do not inform the UKBA during their initial claim.

Thirdly, cultural divisions remain a priority area for women's access to sexual violence support. As one interview respondent pointed out:

Women from so many cultures women won't necessarily see talking as a way of resolving difficulty... talking to a stranger in a counselling setup is a bit of a bizarre notion.

This highlights a need for flexibility and knowledge of wider cultures, both of which can be limited due to funding, staff and time to develop strategies to allow for the development of cultural sensitivities. However, some interviews and wider activist engagement in the voluntary sector suggests there can also be an expectation that women from outside of the UK will not be able to speak English or accept counselling and support. This is not always the case, and approaching sexual violence support in this way sometimes limits or completely eradicates scope for support from the offset.

Lastly, there are often divisions in the gendering of space in asylum support organisations in Merseyside. Again, a lack of government or public funding is one root of this, as space is limited and funds seldom exist to provide wider activities. However where voluntary support for asylum seekers does exist in Merseyside, space is largely male dominated which can be particularly threatening for survivors of sexual or domestic violence, as well as other vulnerable adults. Activities such as sports, cooking and computer facilities can also be male dominated, reducing women's opportunities to engage in general communal activities and support. For example, two separate respondents working in voluntary asylum support organisations stated:

If they're going to use the computer space they have their children, and who looks after their children? They get there and it's, you know there's just a lot of men that use that space.

We've had people who won't come back to the English classes because young men have said things to them. And I suppose once every couple of months we stand up in the kitchen and say 'listen, this is going on and it has to stop'.

Gender sensitive approaches should be recognised and adopted as an integral part of support in all asylum organisations, voluntary and governmental.⁹ Without this, there is an increased possibility of wider disengagement with support agencies.

⁹ See Refugee Council (ibid) *Vulnerable Women*: and Asylum Aid (ibid) *Unsustainable*

Conclusion

In light of this research, it is evident that, although there are increases in domestic and international legislation and policy, a void remains in implementation. Sexual violence in conflict does not appear to be reducing and in some areas, such as the Ivory Coast and Libya, is increasing without significant prevention as conflicts develop.

The extent of sexual violence in conflict is well documented, yet disbelief continues in the UK when women disclose, and even then a lack of gendered focus can severely reduce disclosure from the offset. Although funding seriously restricts the amount and type of support available from the UKBA, as well as for non-governmental organisations, it should not prevent the implementation of gendered considerations. Many recommendations exist, and it is perhaps a case of including these at grassroot levels to ensure women a fair asylum application process and an opportunity for adequate sexual violence support whilst in the UK asylum system.

Women's Asylum News would like to thank Vicky Canning for writing this article.

Legal Issues

ZH (Tanzania) v Secretary of State for the Home Department [2011] UKSC 4 (1 February 2011)¹⁰

This is a unanimous decision by the Supreme Court allowing ZH's appeal against the decision to remove her from the UK, on the basis of her private and family life under Article 8 ECHR. This case considered what weight is to be given to the best interests of children who are affected by a decision of the Secretary of State to deport or remove one or both of their parents. The Court considered in particular the relevance of nationality where a child in that situation is a British national.

ZH is from Tanzania and the mother of two British children aged 12 and nine. The Court of Appeal had ruled that the children could reasonably be expected to follow their mother to Tanzania. ZH's immigration history had weighted heavily in the decisions to refuse various asylum and human rights applications she had made. The Tribunal at the second stage reconsideration hearing considered that the children could either remain in the UK with their British father (who was suffering from HIV, living on disability living allowance with his parents and his wife and "reported to drink a great deal") or alternatively go to Tanzania to live with their mother. Permission to appeal to the Court of Appeal was granted because the Tribunal had failed to consider the impact the separation from the father would have on the children. Although the Secretary of State then conceded that in the particular facts of this case it would be disproportionate to remove the mother, the Supreme Court gave judgment to set out the general principles which the UK Border Agency and the appellate authorities should apply.

The Supreme Court considered past domestic case law on the application of Article 8 ECHR in removal cases where children were involved. The Court highlighted the need to consider the impact of removal on all family members of the person who is subject to an immigration decision. The Supreme Court went on to consider the case law of the European Court of Human Rights on Article 8 ECHR, and in particular the factors to be considered when assessing whether removal would be proportionate. The Court raised in particular the following considerations: (i) "the best interests and well-being of the children, in particular the seriousness of the difficulties which any children of the applicant are likely to encounter in the country to which the applicant is to be expelled; and (ii) the solidity of social, cultural and family ties with the host country and with the country of destination" and re-iterated that if children had lawfully spent all or most of their childhood/youth in the host country there would need to be "very serious reasons to justify expulsion". The Court also said that "provided that the Tribunal did not treat any other consideration as inherently more significant than the best

¹⁰ <http://www.bailii.org/uk/cases/UKSC/2011/4.html>.

interests of the children, it could conclude that the strength of the other considerations outweighed them. The important thing, therefore, is to consider those best interests first". Applying the principle of the best interests of the child as broadly meaning the well-being of the child and asking whether it is reasonable to expect the child to live in another country, Lady Hale listed a variety of factors relevant to this question namely "the level of the child's integration in this country and the length of absence from the other country; where and with whom the child is to live and the arrangements for looking after the child in the other country; and the strength of the child's relationships with parents or other family members which will be severed if the child has to move away". Lady Hale also emphasised the rights the children have as British citizens which although not a "trump card" is of particular importance when assessing the best interests of the child, noting that by moving to another country they "will lose the advantages of growing up and being educated in their own country, their own culture and their own language". Clarifying the approach when considering the best interests of the child in an Article 8 ECHR claim, it is necessary to consider this primary consideration first, which then may be outweighed by the cumulative nature of other considerations. Lady Hale noted the importance of letting children express their own view if they wish to do so and directly if old enough to do so.

Lord Hope referred to one particular error by the Court of Appeal in refusing ZH's appeal which lies at the heart of the case. The Tribunal relied on the fact that ZH knew her immigration status was precarious before her first child was born when assessing whether her removal would breach Article 8. It took the view that maintaining a proper system of immigration control outweighed the children's best interests. Lord Hope adopted Lady Hale's suggested approach when considering the competing best interests of children and effective immigration control: the primary consideration of the best interests of the child must be taken as the starting point when assessing whether other considerations may outweigh it.

Lord Kerr said that "What is determined to be in a child's best interests should customarily dictate the outcome of cases such as the present ... and it will require considerations of substantial moment to permit a different result." The Secretary of State has argued elsewhere that this goes further than Lady Hale, and does not reflect the views of the majority. In *Lee v SSHD* [2011] EWCA Civ 348, Sedley LJ, giving the judgment of the Court, said at para 15: "It seems to us that Lord Kerr is expressing the same view as Lady Hale in different language; but if we are mistaken about this, the majority opinion is that expressed by Lady Hale and is to be followed."

Lord Kerr also said that "if a child is a British citizen, this has an independent value, freestanding of the debate in relation to best interests, and this must weigh in the balance in any decision that may affect where a child will live".

ZH's appeal to remain in the UK was therefore allowed on Article 8 ECHR.

National News

UK reports to CEDAW Committee

The United Kingdom submitted its seventh periodic report to the UN Committee of the Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW) in June 2011. Below is a summary of the chapter that is relevant to women seeking asylum.

Article 9: Nationality

As part of the UK Government's efforts to ensure that women asylum seekers are not discriminated against when they make asylum claims, each UK Border Agency (UKBA) regional office has individual arrangements in place to enable women asylum seekers with dependent children and no

alternative childcare arrangements to attend asylum interviews without having to bring their children with them.

Asylum seekers receive an induction on how to access educational and healthcare facilities in the UK.

UKBA produced a revised gender Asylum Instruction "Gender issues in the asylum claim" in September 2010. A new Asylum Instruction "Sexual orientation and gender identity in the asylum claim" was produced in October 2010. Both pieces of guidance highlight the UK Government's commitment to making the asylum process as gender-sensitive as possible, including for women who are lesbian, bisexual and/or transgender.

During 2011, the UK Government will update the UKBA information leaflet given to all asylum applicants entitled "Important information about the UK asylum process" to include information about trafficking and domestic violence.

Victims of domestic violence and 'No recourse to public funds' policy

A UK-wide pilot, the "Sojourner Pilot", commenced in 2009 for victims of domestic violence who entered the UK on a spouse or partner visa and subsequently had no recourse to public funds. From April 2012 migrant spouses who are eligible to apply under the domestic violence provisions and who require a place in a refuge will be granted a short period of leave to enable them to access benefits for a limited period while a claim for indefinite leave to remain is made and considered.

Support and accommodation

The UK Government has specific legislation in place under regulation 4 of the Asylum Support (Amendment) Regulations 2005, which specifies that UKBA must take into account the special needs of an asylum seeker or their family member who is a vulnerable person, when providing or considering whether to provide support under sections 95 or 98 of the Immigration and Asylum Act 1999.

Vulnerable applicants whose asylum applications have not yet been recorded may request access to initial accommodation out of hours, if he or she is a particularly vulnerable applicant, such as families with children under 18 years. Accommodation providers are obliged to assist with accommodating a new baby. A maternity payment of £300 is available to applicants supported under sections 95 and 98 of the Immigration and Asylum Act 1999 to help with the costs arising from the birth of a new baby.

The UK Government makes provision for victims of domestic violence who are in receipt of asylum support, such as emergency cash support.

The UK Government has systems, including anti-bullying strategies, in place to ensure the safety and security of all detainees in removal centres. Female detainees are provided with separate sleeping accommodation from males in detention facilities.

Implementation of the Gender Guidelines

The UK Immigration Rules require consideration of the individual position and personal circumstances of every asylum applicant, including factors such as background, gender and age. Action such as asking applicants to state their gender preference for the person who conducts their asylum interview is taken and accommodated as far as operationally possible. The implementation of UKBA's guidance on the consideration and interviewing of applicants whose claims are gender-related is monitored through consistent independent and impartial examination by the UKBA's Quality Audit process and independently by the UNHCR. Appropriate remedial action is taken where it is found that a decision is below the expected quality standard.

UKBA's quality assurance process has been further developed to include specific assessment criteria and standards regarding gender-related persecution. This allows it to monitor the quality of asylum interviews and decisions to ensure consistency and adherence to all relevant guidance and instructions. The UK Government has conducted a specific thematic review of asylum cases where the claim has aspects of gender-related persecution, in order to provide assurances that guidelines are followed. The review was completed in May 2011 and the findings are being used to inform future policy and training.

The UK will be examined on this report by the CEDAW Committee early in 2013. In 2013, Asylum Aid will be coordinating a shadow report to provide the CEDAW Committee with the response of Charter endorsers to the UK report. This will be coordinated via the Charter google group.

For further information, see:

http://www.equalities.gov.uk/publications_and_research/flexible_working_research.aspx.

For the UK report, see:

<http://www.equalities.gov.uk/pdf/110610%20UK%20SEVENTH%20CEDAW%20REPORT.pdf>.

UK fails to sign Council of Europe treaty on violence against women and domestic violence

While ministers from elsewhere in Europe gathered in May in Istanbul to ratify a new Council of Europe convention on violence against women and domestic violence, representatives from the UK were notable in their absence. This failure has added to the confusing record the present UK government holds on tackling domestic abuse and violence against women. Despite publicly claiming to take it very seriously, the government has withdrawn funding from services that are essential to supporting women affected by domestic violence. This has included legal aid and services specifically aimed at women asylum seekers who suffered domestic abuse in their home country. The new treaty represents an important step forward in tackling this serious issue as it includes a monitoring mechanism to ensure that its provisions are carried out. This is vital, as legislation is often not properly implemented by official agencies.

To read the full article, see: <http://www.guardian.co.uk/commentisfree/libertycentral/2011/may/19/uk-domestic-violence-council-europe/print>.

For the treaty text, see: <http://conventions.coe.int/Treaty/EN/Treaties/Html/210.htm>.

Data on gay asylum claims still not being collected

Six months on from making it, the UK government has failed to deliver on its promise to start collecting data on the number of people who claim or are refused asylum on the basis of their sexuality, and therefore prevent them from being sent back to situations of persecution. Following a Supreme Court ruling in July 2010 that the UK could no longer refuse gay or lesbian asylum seekers on the basis that they should simply return to their home country but 'be discrete'; the UKBA, on instruction from the Home Office, brought in new rules in November 2010 that were supposed to be implemented immediately. Furthermore it was instructed to start recording cases that this new ruling was applicable to. The significance of the absence of this data collection is that it is impossible to know whether this ruling is being adhered to. Consequently, gay and lesbian asylum seekers may still be being deported back to countries where they are at severe risk as a result of their home country's attitude towards homosexuality. Countries such as Uganda, Malawi and Iran were of particular concern, according to one of the judges involved in the July ruling. Campaigners have accused the UKBA of "Institutional homophobia" and called on it to rectify this and to change the system whereby gay and lesbian asylum claimants are increasingly being disbelieved.

To read the full article, see: <http://www.guardian.co.uk/uk/2011/may/01/gay-asylum-claims-not-being-counted/print>.

Government's legal aid cuts come in

About the authors

Camilla Graham Wood, a trainee solicitor at Birnberg Peirce in London, and Carita Thomas, a solicitor at Howells in Sheffield have provided the following article. Both are members of Young Legal Aid Lawyers (YLAL).

On 21st June, the Government released its long awaited response¹¹ to the consultation on legal aid reform. Unfortunately, the draft bill¹² brings in most original proposals, with little apparent concern for the views of over 5,000 respondents who were mainly opposed to the cuts.

What does this mean for women? The Government acknowledges they would be disproportionately affected by the proposals.¹³ This is clear in immigration, where women can be particularly vulnerable. Here legal aid will only be kept for protection claims or challenging detention. There is no concession for vulnerable victims of trafficking and domestic violence. There will be no free advice on refugee family reunion or claims based on life or family in the UK. Also, the combined effect of cuts to scope and fees mean many firms will not survive,¹⁴ leaving women asylum seekers in the same advice desert seen after the demise of RMJ.

The government says cuts are necessary in the age of austerity and lawyers are out for themselves. Young Legal Aid Lawyers ("YLAL") always put clients at the forefront of our campaigns and are conscious that the voice of legal aid recipients is rarely heard. We helped organize an inquiry which heard testimony from clients who benefited from legal aid, to give real human context to the cuts.¹⁵ We believe the proposals are false economy as good quality, early advice can save the state money later. But worse, they leave the most vulnerable without access to justice. Rights of Women have spoken out against cuts, acknowledging legal aid is a vital resource:

"Women's ability to obtain and benefit from their legal rights and remedies is dependent upon their ability to access legal information, advice and representation."¹⁶

These proposals will leave many vulnerable women having to represent themselves. YLAL is calling on MPs and the public to resist the changes, in a campaign supported by Asylum Aid. Please join us and ask your MP to vote against the draft bill, as we can still save legal aid. Visit: www.savelegalaid.co.uk/takeaction.

About YLAL

Young Legal Aid Lawyers (YLAL) was formed in 2005. We have over 2,000 members nationwide including students, paralegals, trainee solicitors and barristers, and qualified junior lawyers. We are committed to publicly funded work as a means of achieving social justice. We believe that the sustainable provision of quality legal services is essential to ensure the rule of law in a civilised society.

For more information, please contact us:

¹¹ <http://www.justice.gov.uk/downloads/consultations/legal-aid-reform-government-response.pdf> .

¹² http://crimeline.info/app/download/5042961768/Legal_Aid_Sentencing_Bill.pdf .

¹³ <http://www.justice.gov.uk/downloads/consultations/legal-aid-reform-eia.pdf> para 1.7 page 24 Cumulative assessment

¹⁴ www.otterburn.co.uk/legalaidreport.pdf.

¹⁵ *Unequal before the law? The future of legal aid* was published on 14 June 2011, Haldane Society of Socialist Lawyers and YLAL

¹⁶ www.rightsofwomen.org.uk.

info@younglegalaidlawyers.org, @YLALawyers on Twitter
www.younglegalaidlawyers.org, www.savelegalaid.co.uk

International News

Afghanistan: Activists highlight severe unfairness of virginity-related penalties

Activists in Afghanistan have spoken out about the hundreds of women facing severe and extra-judiciary penalties for alleged pre-marital sex and loss of virginity. Suraya Subhrang, a women's rights commissioner at Afghanistan Independent Human Rights Commission (AIHRC) has spoken of women she has seen humiliated, tortured and even killed, following accusations of loss of virginity prior to a wedding night. This is despite the complete absence of mentions of virginity in the country's penal code and other laws. While virginity tests may be a routine part of medical work in Afghanistan, required for women preparing for marriage, these tests can be extremely unfair for women. This is due to the lack of female experts and lack of understanding that the hymen may be torn by other factors than intercourse. Amnesty International has joined AIHRC in highlighting this issue, condemning forced or coerced tests as a form of torture. Furthermore, these tests can result in 'honour killings' carried out by families or relatives who feel the results have brought shame upon their family name. These killings often go unreported and represent a double standard ingrained in Afghanistan's cultural traditions, as women lack the same right to punish husbands for illegitimate sexual behaviour.

To read the full article, see: <http://www.irinnews.org/PrintReport.aspx?ReportID=92581>.

DRC: Legislation has had little impact on sexual violence

A study published in May 2011 by the American Journal of Public Health found that 1.8 million women in DRC have been raped during their lifetime. Due to judicial inaction and the legal culture, laws introduced five years ago to prevent and punish sexual and gender-based violence have had very little impact on the extent of those crimes. The State fails to bring perpetrators to justice and victims find it difficult to access legal representation and are sometimes required to pay a "fee" to start the investigation, meaning that any prosecution will rely heavily on the initiative taken by victims. Future programmes should focus on abuse within families and decreasing the culture of impunity in relation to sexual violence. The revision of the laws relating to sexual violence in 2006 continue to conflict with other legislation and certain cultural norms and women are often forced to consider the social impact that reporting rape will have. The judicial system is also fraught with corruption which means that many perpetrators can bribe or escape their way out of custody. Sometimes, victims of rape must marry their rapists as this avoids the stigma and shame associated with the attack and the impossibility of the women being able to marry afterwards because they are no longer virgins.

To read full article see: <http://www.irinnews.org/report.aspx?reportid=92925>.

DRC: Study finds 48 women raped every hour

A study has revealed that 1,152 women are raped every day in the Democratic Republic of Congo, equivalent to a rate of 48 women per hour. This is 26 times more than the estimate of 16,000 cases a year previously made by the UN. Furthermore, the study found that nearly one woman was subjected to some form of sexual abuse every minute. While rape has been noted as a serious problem in eastern DRC, the area of the country racked with conflict, this study found sexual abuse to be highly prevalent in northern and western DRC also. This is due to the study's broader focus on sexual abuse

within the domestic sphere, something which the researchers urged authorities to focus on in future policies and programmes. The figures were derived from a nationwide household study of 3,436 Congolese women aged 15 to 49 women in 2007. While commentators on the research have issued some caution about the methodology and sample sizing of the study they say the message of the research still stands. Michael VanRooyen, director of the Harvard Humanitarian Initiative, went so far as to say that conflict in the DRC can be seen as 'war against women'.

For the full article, see: <http://www.guardian.co.uk/world/2011/may/12/48-women-raped-hour-congo>.

Ivory Coast: Women and girl refugees at risk of sexual violence

Human Rights Watch has done extensive research in the region and the routes taken by Ivorian refugees into Liberia and where they are sleeping highlighting the precarious security situation women and children in particular find themselves in. The women and girl refugees interviewed said most had fled the Ivory Coast without their husbands, parents or other relatives. Numerous reports were given by Ivorian refugee women and girls fleeing into Liberia who have had to engage in sex for money, basic necessities, shelter and survival. Many were attacked on their way to Liberia while others had to provide sex in exchange for shelter and food in Liberia near the border with the Ivory Coast. Furthermore, women and girls are then faced or threatened with violence if they refuse certain sexual activities or if they insist on the use of condoms. Women and girls living in host families faced violence and had to engage in long hours of manual labour. Human Rights Watch has made recommendations to the Liberian police, the Liberia Refugee Repatriation and Resettlement Commission (LRRRC), the UNHCR, the World Food Programme, UNICEF and the UN Population Fund and to donor governments supporting Liberia and UN agencies.

To read the full report, see: <http://www.hrw.org/en/news/2011/04/20/liberia-protect-refugees-against-sexual-abuse>.

Kenya: Tackling sexual abuse in schools

Media reports in Kenya have once again drawn attention to the problem of sexual abuse in Kenyan schools, despite the introduction of government initiatives designed to protect children. A government report from 2009/10 found at least 1,000 teachers had been sacked during this period for sexually abusing children in their care. Other reports suggest though that the majority of cases go unreported, and for those that are, only a minority of teachers are dismissed, with the majority receiving minor or no punishment. While the Teachers' Service Commission (TSC), the body responsible for monitoring teachers' conduct, issued guidelines in 2010 designed to protect children from sexual abuse, several factors can prevent families from coming forward with allegations. These include fearing the stigma these cases can bring, a poor background which teachers can exploit by offering to provide financial compensation, and the difficulty in proving the allegations unless a girl is impregnated. NGOs have applauded government initiatives such as ChildLine Kenya, a free helpline, but say more needs to be done, calling on schools to introduce internal services which enable victims to report abuse without feeling intimidated. More also needs to be done to educate and strengthen parents so that more children are not put in danger.

To read the full article, see: <http://www.irinnews.org/PrintReport.aspx?ReportID=92845>.

Kenya: Official figures hide continuing underground practice of FGM

Kenyan officials have admitted that 2001 legislation designed to stop female genital mutilation may appear to have led to a decrease, but that it has also meant more people are carrying it out in secret.

The 2008/09 Kenya Demographic and Health Survey reported a national drop of prevalence of FGM from 38 per cent in 1998 to 27 per cent. However, within certain communities, such as the Kisii ethnic community, the report noted an extremely high prevalence of 96 per cent. Pamela Mbuvi, a district children's officer for Kisii district has spoken of the secrecy that now surrounds the practice. "[It] makes it hard to effectively use the law to end the practice". A rescue centre built in the district for those trying to escape FGM, had to move to Kisumu city, farther west, following attacks from angry fathers. A Kenyan MP and FGM activist Lina Jebii Kilimo has therefore called for the government and children's rights workers to create cohesive and continuous campaigns to educate communities, as laws alone will not work to end this deep-rooted tradition.

To read the full article, see: <http://www.irinnews.org/PrintReport.aspx?ReportID=92869>.

Laos: Risk of re-trafficking due to family pressures

When trafficking victims are returned to Laos, mostly from Thailand, and return to their communities they often find themselves forced to return to exploitative situations because the money they can earn at home is not sufficient for their families who rely on the income. They are also subjected to social stigma and discrimination at home as there is a lack of knowledge and information about human trafficking and how traumatic it can be for the victim.

To read full article, see: <http://www.irinnews.org/report.aspx?reportID=92813>.

Malawi: book highlights ill-treatment of LGBT community

A new book containing the stories of 12 LGBT men and women underlines the constant fear in which they live in Malawi. Same-sex relationships can be punished by 14 years in prison with hard labour. They fear not being accepted by their families and communities and of being arrested and subjected to violence. The high-profile trial of two gay men in 2010 pushed the LGBT community further underground and has compromised HIV prevention programmes for men who have sex with men. Lesbians in Malawi are subjected to corrective rape in attempts to "turn them straight". LGBT women remain largely invisible and the activism and funds available for addressing their needs is much less than that available to LGBT men.

To read full article, see: <http://www.plusnews.org/report.aspx?reportID=92681>.

Myanmar: Majority of women trafficked to China face forced marriages

The UN Inter-Agency Project on Human Trafficking (UNIAP) has revealed that 70 per cent of Myanmar's trafficking cases in 2010 involve women who have been tricked into travelling to China for work, but are then forced to marry Chinese grooms. UNIAP claim that this practice has been going on for more than a decade and is on the increase-122 cases were recorded in 2010, up from 104 in 2009. However, the fact that increases have been noted may be due to better policing. Both China and Myanmar have legally recognised these cross-border arranged marriages as a form of human trafficking and have consequently assigned a special taskforce to tackle the problem. This has led to an increase in cases being reported and offenders being apprehended. Save the Children have welcomed these developments but have called for a greater commitment towards prevention strategies. Parents are often prepared to accept \$1000 for their daughters, whilst the Chinese grooms pay up to \$8000. UNIAP have noted that while education of parents can make them see the

dangerous position in which they are placing their daughters, continued levels of poverty make it unlikely the custom will be erased altogether.

To read the full article, see: <http://www.irinnews.org/report.aspx?reportID=92868>.

Pakistan: Prevent injustice for gang-rape victim

Human Rights Watch (HRW) has called on the Pakistani government to petition for a full-bench review by the Supreme Court of its acquittal of five men accused of gang-raping a woman following orders from a village council in 2002. Despite compelling evidence provided by Mukhtar Mai, a woman from Muzaffargarh district, a three-judge panel of the Supreme Court upheld a 2005 decision by Lahore High Court that acquitted five of the six men accused of the crime, while also confirming the life sentence given to the sixth, Abdul Khaliq. This has exposed “deep flaws” within Pakistan’s criminal justice system and signals an “appalling disregard for women’s rights” according to Brad Adams, Asia Director at HRW. Though she fears for her life, having received death threats, Mukhtar Mai has spoken out about her ordeal and become an ‘icon’ in international women’s rights. HRW feels the Supreme Court should have used its powers to summon key police figures and other officials to testify in order to rectify the mistakes made by the original court. They have therefore urged the Pakistani government to intervene and to urgently introduce mechanisms that would prevent informal village and tribal councils ‘taking the law into their own hands.’ Without this intervention, HRW feel, this case may strengthen those local leaders who seek to violate women and other at-risk groups.

To read the full article, see: <http://www.hrw.org/en/news/2011/04/22/pakistan-prevent-injustice-gang-rape-victim?print>.

Rwanda: Report questions use of community courts to trial rape cases

A Human Rights Watch (HRW) report has reignited the debate surrounding Rwanda’s use of community-based gacaca courts to process the cases of women raped during the 1994 genocide. One of the first attempts by an advocacy group to assess these courts, the report raises concerns about the lack of privacy afforded to the plaintiffs, as well as the fair trial rights of the defendants. The transfer of cases to these courts in May 2008 was designed to deal with the backlog of cases and, its defenders say, was the only way to ensure that justice was delivered ‘in a timely fashion’. HRW’s investigators spoke with rape survivors who felt ‘betrayed’ by this transfer. They felt that, despite the case being heard behind closed doors (unlike other gacaca cases), that the close nature of Rwandan communities, and location of the courts, made it possible that their identities would be revealed. However, the report, and other civil society groups in Rwanda, acknowledge that these courts have implemented safeguards to protect women concerned about confidentiality, such as providing written rather than verbal testimony. Furthermore, the report does detail that for some women the gacaca process was actually not as traumatic as they had expected, something that Jane Abatoni Gateti, former executive director of the Rwandan Association of Trauma Counsellors, affirmed. She stated that she felt the system had in general provided well for these women. The report also raised the difficulties in ensuring defendants were given a fair trial in courts where lawyers are not involved, and the community are not able to fulfil their usual role of challenging false testimony. For those who defend the use of these courts though, this is not a fair criticism given the overriding priority of providing confidentiality. Moreover, they state that these courts were the only way these women would have been able to find justice. As only 100 gacaca cases remain, it is unlikely the system will change.

To read the full article, see: <http://www.irinnews.org/report.aspx?reportid=92876>.

To read the full report, see: <http://www.hrw.org/en/node/99177/section/1>.

New Publications

What have I done? The experiences of children and families in UK immigration detention: lessons to learn

The Children's Society, 2011

New research published by the Children's Society has highlighted the ongoing health risks caused when families with children are placed in immigration detention, or families are separated as part of the detention process. The research into the treatment of 32 families – most of whom have fled conflict and abuse abroad – was carried out in 2009 and 2010, and makes a number of findings relating in particular to mothers in detention, including:

- Seven of the mothers detained had been separated from their children for more than five months; in two of these cases, mothers had been separated from their children for over a year
- Three of the 32 families included a woman who had been detained while pregnant
- Three mothers were placed on suicide watch while in detention
- One mother was detained along with her husband and children, but separated from them when she was removed from detention and sectioned under the Mental Health Act

To read the full report, see:

http://www.childrenssociety.org.uk/sites/default/files/tcs/research_docs/immigration%20experiences_full%20report.pdf.

Last Resort or First Resort? Immigration detention of children in the UK

Bail for Immigration Detainees and The Children's Society, May 2011

The report is based on detailed research into the cases of 82 families with 143 children who were detained during 2009, and uses data from 82 clients' case files, interviews with 30 family members and 27 legal representatives, and full Home Office files for 10 families.

To read the full report and executive summary, see: <http://www.biduk.org/162/bid-research-reports/bid-research-reports.html>.

“He Loves You, He Beats You”: Family Violence in Turkey and Access to Protection

Human Rights Watch, May 2011

This recent report by HRW found that 42% of women over 15 have been victims of physical or sexual assault from their husband or partner; this rises to 47% in rural Turkey. This amounts to 11,000,000 women in total “across income and education levels”. The report sets out that there is strong legislation providing two specific civil remedies to address this, both of which fall short in implementation of what is needed:

- Civil protection orders. Access to these orders – which can bar the abuser from the family home – “is essentially a lottery”. Some judges interpret the legislation to cover only married women; some to cover women who have undergone a civil marriage but not a religious marriage alone; some extend the rules to all women. Access to state protection is highly variable:

When women do report family violence to police, they risk being turned away. Law enforcement officers often prioritize preserving family unity, and push battered women to reconcile with abusers rather than pursuing criminal investigations or assisting women in getting protection orders. Law enforcement training and public pressure have led to some progress, but much still needs to be done before abused women can count on their complaints and safety being taken seriously

- Shelters. The Turkish Government is 100 shelters short of honouring its promise to ensure that every municipality with 50,000 or more residents has a refuge. In addition, some women are excluded from some existing shelters, including those who are pregnant, undocumented, physically or mentally disabled. Police and schools have previously disclosed the locations of shelters

HRW recommends that protection orders are explicitly extended to women who are married, divorced and in unregistered religious marriages. Police stations should host specially-trained units for women fleeing domestic violence; a complaints procedure should be in place that identifies those officers who do not comply with legislation; more and better shelters are needed.

To read the full report, see: <http://www.hrw.org/en/reports/2011/05/04/he-loves-you-he-beats-you-0>.

No Credibility: UKBA Decision Making and Section 4 Support: Why 80% of destitution refusals are overturned on appeal

Asylum Support Appeals Project (ASAP), April 2011

The report looked at 55 case files of ASAP clients and analysed the quality of decision-making when section 4 applications were made on destitution grounds. The decisions were found to be badly wanting and 82% of the support refusals analysed were overturned on appeal.

The report states among its key findings that “there was an unusually high number of women among the applicants. Pregnancy, or the birth of a child, was the most commonly stated reason why family and friends could no longer accommodate applicants and meant that they had to apply for section 4 support. Most women were either pregnant or single parents.”

Of the 55 people whose files were sampled, 26 were women (47%) of whom 15 either were pregnant or had children (58%) and 7 who were pregnant at the time of the support application (27%). Of the 15 women who were pregnant or had children, 14 were single parents (93%).

In most cases asylum seekers applied for asylum support because their support networks collapsed (93%). There were most often changes in the applicant’s circumstances like the birth of a child, pregnancy or separation from a partner (43%) or change in family or friend’s circumstances which meant they could no longer support the applicant (33%). 9 women (35%) stated that “pregnancy or the birth of a child was the reason they had to move out of accommodation”. Others applied because their friends or family were unable to cope with the situation any longer or social service support was

inadequate. By looking at the interval between the submission of a fresh claim and an application for section 4 support, the report suggests that the two were not directly linked.

All the applications were refused because the UKBA decided the applicant was not destitute. This was due to a failure by UKBA caseworkers to understand and correctly apply the destitution test and a failure to assess the evidence supplied in a satisfactory way (in 79% of cases all or some of the evidence supplied was ignored and reliance was placed on unconnected factors). Some trends emerged from the reasons for refusal given by the UKBA, namely, the length of time applicants had been without support, applicants' credibility, applicants' family ties, support history and small technical problems or inconsistencies in the application forms. The research also highlights the delays in processing applications.

To read the full report, see: <http://asaproject.org/web/images/PDFs/news/asapreport260411.pdf>.

UK Training and Events

Support Options for Refused Asylum Seeking Women and Families

The Asylum Support Appeals Project, in partnership with the Zimbabwe Association, is providing a free half days training. *The training will be of particular interest to women's organisations*

The training will cover:

- Section 4 Support: Who qualifies?
- Pregnancy and Section 4 Support
- Support options for Women experiencing Domestic Violence
- Families and Dispersal
- Update on the situation for Zimbabweans in the UK
- Update on the Case Resolution Directorate (aka Legacy)

Date and Time: Wednesday 20th July 1.30- 4.30

Venue: Oxford House, Derbyshire Street, Bethnal Green, London E2 6HG

Unfortunately, due to limited resources, lunch will not be provided.

To book places please send an email to gerry@asaproject.org.uk . If you have any queries, please contact either Gerry or Sinead on 020 7729 3056

Women's Migration and Asylum Network

Rights of Women is inviting you to join Rights of Women's '**Women's Migration and Asylum Network**'. The network will exist primarily as virtual 'e-group' with occasional seminars and events being organised as and where necessary. The objectives of the Women's Migration and Asylum Network are to:

- facilitate communication between and strengthen the understanding of network members on legal and policy issues that affect migrant and asylum-seeking women;
- improve the participation of network members in the legal and policy formation process;
- positively influence law and policy that affects migrant and asylum-seeking women;

- promote gender equality and work towards the elimination of discrimination on the grounds of gender, as well as discrimination against women where it intersects with age, disability, gender identity, race, religion or belief, sexual orientation or any combination thereof; and,
- to promote the human rights of all women in the UK.

The Network will focus on improving gender equality in relation to the following thematic areas:

- asylum;
- economic migration;
- family migration (including family formation and reunion);
- settlement and routes to citizenship;
- violence against women issues (including trafficking);

The network is open to individuals and representatives from:

- charities, not-for-profit and voluntary organisations working on migration or asylum issues and / or women's or other equality issues;
- statutory sector organisations;
- individuals involved in immigration law and policy issues (such as activists, academics and legal professionals).

The terms of reference for the group can be downloaded from here

www.rightsofwomen.org.uk/current.php#womens_migration_and_asylum_network. If you are interested in joining please email cate@row.org.uk with 'join the Women's Migration and Asylum Network' in the subject line and with your full name and organisation / affiliation. The creation and facilitation of the Network has been made possible by Unbound Philanthropy.

The Migrants' Law Project

The Migrants' Law Project is an exciting new project that aims to protect and strengthen the rights of asylum seekers, refugees, and migrants through public law and public legal education. They aim to help NGOs serving this community to advocate more effectively on behalf of their clients by equipping them with the legal tools and knowledge they need to challenge unfair government policy. Where necessary, they will help them to challenge these policies in court. They also undertake public legal education, helping those without access to legal advice to understand how to use the law to protect and promote the rights of asylum seekers and migrants. They are based at [Islington Law Centre](#), but operate nationally.

They work with non-legal organisations to help them to effectively negotiate with government around issues of concern. They do this through offering advice and training, helping them to use legal knowledge and tools to hold the government to account over unfair policies. They can advise and represent them in legal challenges. By focussing on broad issues within the asylum and immigration sector, they are able to bring about meaningful change, positively affecting the lives of many asylum seekers. The MLP also seeks to help groups to keep up to date on changes within policy and law that would affect their clients, and on how to use these changes.

They host forums where groups and legal practitioners can come together to discuss important issues. They also have an online resource at www.mlpforum.wordpress.com, which details their work, and where people can come together to discuss important issues. The MLP was established in July 2010, and began to take on substantive work in January 2011. They are currently working with partners to look at challenging the detention of torture survivors.

You can find out more about the work at www.themigrantslawproject.org. For more information, please contact katiec@islingtonlaw.org.uk.

Charter of rights of women seeking asylum



Endorsements: 244

Google group membership: 141

The Unity Women's Project

The Unity Women's Project started at the Unity Centre in Glasgow in December 2009. It began after a need was identified for an accessible women only service to meet the complex support needs of women asylum seekers and women who have been through the asylum system in Glasgow. The project has grown in size and scope since then, and became an independent constituted group in May 2011.

We run a weekly drop-in where women can come along with their children to receive support in a safe and secure women-only space, and an outreach service to provide emotional and practical support to women if they have mobility problems or for other reasons are unable to access our drop-in. We recently started a gardening project in partnership with a community garden giving women and their children a safe and peaceful green space to socialise and relax in.

We help women to fight for their rights throughout the asylum process and beyond by advocating for them at lawyer's appointments, asylum tribunals and court hearings. By supporting women emotionally and practically we help improve their self-esteem and confidence and to rebuild their lives. We support some of the most vulnerable women – those who have been made destitute, who have serious health problems and who have experienced torture and abuse - and help them to feel safe, accepted and valued.

We have endorsed the Charter because it highlights what the reality is like for women asylum seekers in the UK and the hardships they face on a daily basis. It is a step towards a future where all women will be able to live in safety and security without fear or oppression.

The *Charter* illustrates the progress that campaigners can make when we work together.

We invite all *Charter* endorsers to share their news, and contribute a short article about their organisation's work for a forthcoming issue of Women's Asylum News. For further information please contact charter@asylumaid.org.uk.

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

She was detained without charge

Nobody believed her story and no-one spoke up for her

Her family and friends didn't know where she was

Afraid...isolated...

She had no idea what would happen to her next

And that was after she sought asylum in the UK

Our asylum system is now so tough that, all too often, this is how people seeking help are treated. And that can't be right.

We believe the system should be fair and just and that every asylum seeker should have legal help to make their case - only then can we say in good conscience 'let the law take its course'.

Asylum Aid is an independent, national charity that secures protection for people seeking refuge in the UK from persecution in their home countries.

We provide expert legal representation to asylum seekers and campaign for a fair and just asylum system. Founded in 1990, we have since helped 30,000 people to get a fair hearing. In 2009 85% of our clients were granted leave to stay in the UK when decisions were made on their claims for protection.

Please support us

Your donation will safeguard our independence and enable us to stand up for fair asylum rights without fear or favour.

You can make a donation via our website:
www.asylumaid.org.uk/pages/give_now.html
OR send it to us by post with this form:

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I want to make a one-off gift of £

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www.asylumaid.org.uk

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Please return this form in an envelope to:
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253-254 Upper Street,
London N1 1RU



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