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Women's Asylum News

Women's Project at Asylum Aid

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Accessing justice in the age of austerity: what legal aid reform means for women seeking asylum

Last month's edition of Women's Asylum News (WAN) featured a piece by members of Young Legal Aid Lawyers (YLAL) about the Government's plans to reform legal aid. This article looks at the progress of the legal aid bill and its potential impact on a particularly vulnerable group.

The bill – where are we now?

When YLAL last wrote for WAN, the Legal Aid, Sentencing and Punishment of Offenders Bill¹ was on the brink of its second reading in the House of Commons. On 29th June, the bill was passed by 295 votes to 212, and it then entered the Committee stage. Oral evidence has been heard and the Committee began scrutiny of the bill on 19th July, just before the summer recess. The bill must be out of Committee on 13th October, after which it will go to the House of Lords, with the intention that it is enacted before the end of this Parliamentary session.

If your head is spinning, you are not alone. The Government's response to the consultation was an agenda for "root and branch reform"² that will change legal aid in the UK beyond all recognition if it becomes law. However, there was barely pause for breath before the bill was set on a fast track through Parliament, bypassing those who may have expected such radical proposals to need time for proper scrutiny. Despite robust cross party opposition at the 2nd reading, the Government majority

¹ <http://www.publications.parliament.uk/pa/bills/cbill/2010-2012/0205/2012205.pdf>.

² <http://www.justice.gov.uk/downloads/consultations/legal-aid-reform-government-response.pdf>, pp. 4-5.

held so the bill got past the first hurdle. Now is the time to take stock and regroup. Readers of WAN have specialist knowledge that can be conveyed to the Committee as they consider the bill and used to lobby MPs, and this can still change the course of the proposals. This article aims to focus on some key points that we can raise in relation to women asylum claimants.

The framework of reform

The Government wants to cut several areas out of scope for civil legal aid, including:

- family (divorce and contact with children if there is no domestic violence);
- social welfare law (housing where there is no actual or threatened homelessness, debt except where facing eviction and all welfare benefits);
- clinical negligence;
- employment (except discrimination);
- criminal injuries compensation;
- education (except special educational needs);
- and cases with a “wider public interest”.

Immigration will go for all cases apart from protection claims (i.e. asylum, breach of Article 3 ECHR), challenges to immigration detention (like bail applications) and cases before the Special Immigration Appeals Commission.³ This means no legal aid for family reunion, deportation, Article 8 ECHR claims on the basis of family and private life, leave to remain outside the rules, visa applications, European law cases, trafficking and domestic violence. A concession was made to allow legal aid for asylum support where the application is for housing, but not if it is only about money. And despite defending judicial review in the green paper, the Government now wants to remove legal aid from certain immigration judicial reviews, for example where someone wishes to bring a claim within a year of their appeal.

The bill also reduces the number of people who financially qualify for the areas of work that remain. Eligibility criteria will tighten so those on low incomes pay more toward their costs and there will be an end to “passporting” for people on certain benefits. The bill also removes the automatic right to legal aid for advice in the police station.

In addition, the Government has decided that all legal aid applications must go through a mandatory telephone gateway, which will initially extend to only four areas of law (remaining debt work, community care, discrimination and Special Educational Needs).

The impact of the reforms

These proposals will have a huge impact on anyone that needs advice,⁴ but asylum will stay in scope for legal aid. Why should we still be looking at the needs of women asylum claimants?

Primarily because the Government has not. Yes, asylum stays in scope, but in the context of the cuts there may no longer be specialist, quality advisers to protect women as they make a claim. And if they are successful, refugee women will not be able to access free advice as they try to integrate into British society or for family reunion to reunite with their partners and children.

In its consultation response, the Government agreed that the disabled, women, black and ethnic minority groups would feel a “greater impact” under the reforms.⁵ It acknowledged women form the majority of clients in key areas like housing, education, family and asylum support.⁶ For non-detained

³ <http://www.publications.parliament.uk/pa/bills/cbill/2010-2012/0205/2012205.pdf>, paras. 21-26 of Part 1 of Schedule 1.

⁴ The Legal Action Group have estimated this could be over 650,000, <http://www.lag.org.uk/files/93658/FileName/TheRealImpactofLegalAidAdviceCuts.pdf>.

⁵ <http://www.justice.gov.uk/downloads/consultations/legal-aid-reform-eia.pdf>, pp. 20-21, 24.

⁶ <http://www.justice.gov.uk/downloads/consultations/legal-aid-reform-eia.pdf>, pp. 39, 43, 49, 64.

immigration work, men make up 53% of the client group, but women clearly represent the majority of cases in sensitive categories like domestic violence and trafficking. And it is widely accepted that women generally make up one third of asylum claimants. However, the Government has failed to engage with these figures in any meaningful way to judge just how proportionate the impact of their proposals will be.

Women should never be seen as inherent victims, but it is sadly still the case that they encounter problems that are gender specific when claiming asylum, something that has been raised in WAN time and again. Last year, Hildegard Dumper reminded us that the refugee experience is still primarily viewed through a masculine paradigm, which is why the Women's Project at Asylum Aid is still so crucial.⁷ In the last edition, Vicky Canning used research from Merseyside to make a case for addressing the void in the implementation of sexual violence law and policy to ensure a fairer and more supportive asylum system.⁸ Women's vulnerabilities increase by way of the imbalance in attitudes and structures around them, so changes that reduce the help available are a matter of concern.

Asylum Aid has reported on the lack of quality in decision-making by the UK Border Agency, highlighting the complexity in many gender-related claims and a need for particular understanding of gender issues when such cases are considered.⁹ I would argue this specialist approach is needed in advice giving too. Most of my asylum clients are victims of violence, and usually women trafficked for sexual exploitation. Cases involving violence and abuse of this kind are often complex and require time to build relationships of trust as well as negotiate the issues, plus a familiarity with resources in the form of country research and expert help, whether this is for a medico-legal report or a therapeutic referral that could provide key support to a claim. A number of my trafficking clients have been granted status on the basis of their specific mental health needs and the relationship they have with counselling services.

However, it is increasingly hard to find a legal aid solicitor, let alone one with relevant experience. And providers will find it even harder to stay afloat once the reforms come in. In October 2011, legal aid fees in criminal and civil work will reduce further¹⁰, meaning it will not be viable for many firms to continue publicly-funded work with the combined impact of a loss of work from scope.¹¹ We have seen the tragic consequences of the closure of RMJ, and since 8th July, the Immigration Advisory Service, a national organisation with 8,000 live files. There is already a real risk of "advice deserts", areas where individuals cannot get legal advice unless they pay privately. Clients will soon be faced with few alternatives, either being forced to find money they cannot afford or go without help. The extension of telephone advice to asylum cases with a gender dimension would not be a suitable alternative. The Refugee Council highlighted the problems with this approach, focusing on language, documentation, and crucially for women asylum claimants, issues of trust and disclosure.¹²

Asylum Aid has reported that women find it difficult to get legal representatives outside London.¹³ The south has vast gaps in provision, and this is increasingly felt in the north too. One of my clients told

⁷ Women's Asylum News, Issue 90, March 2010, pp.2-3,

http://www.asylumaid.org.uk/data/files/publications/126/WAN_March_2010_issue_90.pdf.

⁸ Women's Asylum News, Issue 102, May-June 2011 pp. 1-5,

http://www.asylumaid.org.uk/data/files/publications/164/WAN_May_June_2011.pdf.

⁹ <http://www.asylumaid.org.uk/data/files/unsustainableweb.pdf>, pp.66-68.

¹⁰ The Government will introduce a 10% cut to civil legal aid fees in October 2011 and changes to the criminal fee structure. However, criminal fees have already been subject to cuts introduced by the last government and many civil legal aid rates remain unchanged since 2001 (see http://www.legalservices.gov.uk/focus_cds5_supplement.pdf, the Community Legal Service Funding Order 2000 SI 2000/627 as amended and the Community Legal Service Funding Order 2007 as amended (SI 2007/2441).

¹¹ An author of a study commissioned by the Law Society said if the proposals went ahead as per Government plans, there would be a 50% reduction in the supplier base. www.otterburn.co.uk/legalaidreport.pdf, www.lawgazette.co.uk/news/cuts-put-half-legal-aid-firms-risk-closure.

¹² http://www.refugeecouncil.org.uk/Resources/Refugee%20Council/downloads/policy_responses/Legal%20Aid%20consult%20RC.pdf.

¹³ <http://www.asylumaid.org.uk/data/files/unsustainableweb.pdf>, p. 67.

me how women asylum seekers she knew in Huddersfield had struggled to get advice, and were turning to church volunteers to help them fill in paperwork as the local CAB had recently closed. The IAS was one of the major providers in the north, with 7,500 matter starts in Yorkshire alone and the only specialist provider in Leeds and Bradford.¹⁴ Smaller providers need both capacity and authorisation from the LSC to increase their allocated matters so they can take on work. But although we are trying our best, will there be enough capacity across the country to replace a national organisation when many firms have already left the field? Most importantly, vulnerable people need quality advice, and the burden should not be thrown on a struggling not-for-profit sector, already subject to severe cuts in funding.¹⁵ Also, advisers on immigration in the course of a business “whether or not for profit” must be a solicitor, barrister, or regulated by the Office of the Immigration Services Commissioner¹⁶ (or they commit a criminal offence), but for legal aid work they must also be accredited on the Law Society’s Immigration and Asylum Accreditation Scheme.

The Government’s plans to take non-detained immigration work out of scope will have an impact on asylum seekers as they affect the ability of providers to stay in business, but refugees will feel a direct hit with the loss of legal aid for family reunion, especially if the not-for-profit sector cannot fill the gap. Contrary to Government belief, cases can be complicated. Refugees have problems negotiating the application process, ensuring DNA tests are carried out if necessary and getting correct documents issued.¹⁷ For non asylum seeking women, the impact of the reforms will be even more severe. In its current form, the bill would cut legal aid for applications under the domestic violence rule, used by those on spouse visas who want to leave an abusive relationship and regularise their stay. The Government said cases were straightforward and did not need specialist help. However, on 19th July, the Minister stated that:

“After further consideration... we accept that such cases are unusual. There is a real risk that, without legal aid, people will stay trapped in abusive relationships out of fear of jeopardising their immigration status. The type of trauma that they might have suffered will often make it difficult to cope with such applications. We also appreciate that people apply under great pressure of time, and access to a properly designated immigration adviser is a factor. We intend to table a Government amendment to bring such cases into scope at a later stage.”¹⁸

Until the bill is amended we must keep up the pressure for change so victims get the protection they need, and ensure the acknowledgment made about the impact of trauma is applied to save legal aid for similar cases, such as trafficking claims, which currently fall out of scope unless there is an asylum issue. It is clear the Government has failed to seriously consider the importance of issues at stake for applicants. This is most poignant when families face separation. The loss of legal aid for Article 8 cases will have a huge impact on women, but also the partners and children who want them to stay, and this should be a major priority for future campaign work.

The proposed reforms place the burden of change on the most vulnerable. The Government has failed to make savings itself, for example, by reducing poor decision making¹⁹ and Home Office delays. The result will be no equal access to the law, with applicants pitted against the Government and all its resources, unable to hold the state to account and enforce their legal rights. The Government says legal aid encourages people to take their problems to the courts²⁰ but there is no

¹⁴ <http://www.lawgazette.co.uk/news/lsc-invites-tenders-immigration-advisory-service-work>.

¹⁵ Legal aid funding to Not for Profit (NfP) agencies as a whole will be cut by 77%, Legal Aid Reform: Cumulative Impact, Equalities Impact Assessment, p. 31, <http://www.justice.gov.uk/consultations/docs/eia-cumulative.pdf>.

¹⁶ Immigration and Asylum Act 1999, s.84.

¹⁷ See for example the report by the Scottish Refugee Council, “One day we will be reunited”, Experiences of Refugee Family Reunion in the UK - April 2010, pp. 40-43, 51,

http://www.scottishrefugeecouncil.org.uk/policy_and_research/information_and_resources/p35.

¹⁸ www.publications.parliament.uk/pa/cm201011/cmpublic/legalaid/110719/pm/110719s01.htm.

¹⁹ Research by Asylum Aid concluded that women were more likely than men to have a negative decision reversed at appeal. 50% of refusals in their study were reversed on subsequent appeals and the negative credibility findings at the initial decision-making overturned. <http://www.asylumaid.org.uk/data/files/unsustainableweb.pdf>, pp.66-67.

²⁰ <http://www.justice.gov.uk/downloads/consultations/legal-aid-reform-government-response.pdf>, p. 3.

alternative to courts or tribunals to challenge decisions by UKBA. The concern about inequality of arms was raised in the recent report of the Independent Commission of Inquiry into legal aid, organised with YLAL's assistance. The Commission, who considered the evidence both for and against cutting legal aid, made clear that:

*“there can be no semblance of equality before the law when those who cannot afford to pay a lawyer privately go unrepresented or receive a worse kind of representation than those who can”.*²¹

As claimants are left without lawyers, there will be an increase in litigants in person, placing a greater burden on the tribunal and increasing court time and costs. The side effects of the cuts could be greater reliance on services provided by the state, e.g. visits to the doctor for someone suffering from depression, unable to cope. Citizens Advice have endeavoured to quantify the “knock-on” costs of removing legal aid, estimating that for every £1 spent on housing advice, debt advice, employment advice and benefits advice the state saves between £2.34 and £8.80.²² The cuts will prove a false economy if they simply result in further costs later on.

The wider context

Clients increasingly run the risk of isolation, especially as support services are cut back. If this happens, clients depend even more on their solicitors. I have worked with a number of excellent specialists supporting women, such as the Poppy Project partnered with Ashiana Sheffield, Anneli in Leeds, and local Refugee Council staff. Unfortunately Poppy has lost the contract to support trafficked women in a decision that would reduce funding by 60% for each victim.²³ Refugee Council also lost 62% of its funding, forcing it to cut back on frontline services.²⁴ There is a serious lack of specialist help for clients who have suffered sexual abuse and those with complex mental health needs. My highly vulnerable trafficking client was dispersed by the Home Office to Pontefract, with no one nearby who could speak her language and no local support closer than the asylum team in Wakefield. The best counselling referral was to Freedom from Torture in London or Glasgow. For some time, I was the only person she could speak to via mobile phone if she had a problem.

Taking action

So what can we do to turn this ship around? The Committee looking at the bill can hear your evidence and you can submit it now. It should concentrate on issues where you have a special interest or expertise, and factual information you want the committee to be aware of. Submissions have a 3,000 word limit and can be sent by email.²⁵ You can also take this issue direct to your MP. Asylum Aid is part of YLAL's campaign to save legal aid and you can find a draft letter for MPs at www.savelegalaid.co.uk/takeaction. MPs will know all too well that those without alternatives for advice ultimately end up at their constituency offices. There is a practical and moral imperative to act, especially for the sake of the most vulnerable like female victims of violence who the Government claims it wants to protect.

About YLAL

Young Legal Aid Lawyers (YLAL) was formed in 2005. We have around 2,000 members nationwide including students and junior lawyers. We are committed to working in areas of law traditionally

²¹ www.younglegalaidlawyers.org/files/Releases_Responses/Unequal_before_the_law_legal_aid_report_june_2011.pdf, p. 57.

²² “Towards a business case for legal aid”, Citizens Advice July 2010 p. 2, www.citizensadvice.org.uk/towards_a_business_case_for_legal_aid.pdf.

²³ www.guardian.co.uk/society/2011/apr/11/eaves-housing-trafficking-salvation-army.

²⁴ www.guardian.co.uk/world/2011/feb/01/refugee-services-heavy-hit-cuts.

²⁵ See www.parliament.uk/business/news/2011/june/second-reading-of-legal-aid-sentencing-and-punishment-of-offenders-bill/guidance-on-submitting-evidence-to-a-abc/ - and note the guidance on formatting. Submissions can be emailed to scrutiny@parliament.uk any time before the end of the Committee stage.

funded by legal aid. We believe that the sustainable provision of quality legal services is essential to upholding the rule of law and achieving social justice. We co-host the All Party Parliamentary Group on legal aid with the Legal Aid Practitioners' Group.²⁶

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Carita Thomas is a member of YLAL and a solicitor at Howells LLP in Sheffield. Women's Asylum News would like to thank Carita for writing this article.

Asylum Aid has written to every member of the Public Bill Committee to raise our deep concerns about how proposed Legal Aid cuts may impact upon people claiming asylum in the UK.

To read the letter to MPs regarding the Legal Aid, Sentencing and Punishment of Offenders Bill, see: <http://www.asylumaid.org.uk/data/files/publications/166/LegalAidLetter.pdf>.

Legal Issues

New Country Guidance case on lesbians from Jamaica

SW (lesbians - HJ and HT applied) Jamaica CG [2011] UKUT 251 (IAC) (24 June 2011)²⁷

SW is a lesbian from Jamaica. The fact that she is a lesbian was accepted by the Secretary of State and her credibility was not challenged. The case was a reconsideration hearing as there had been an obvious error of law by the Tribunal which had considered her appeal in 2008 and had applied the higher civil standard on a balance of probabilities. The initial appeal had found that SW is a lesbian from Jamaica; that she had come to no direct harm in Jamaica, had enjoyed a discreet social life with other lesbian women and several covert lesbian relationships in Jamaica; that she had the support of her brother and former boyfriend in Jamaica; that her employer had become aware of her sexual orientation; that she had experienced several open lesbian relationships in the UK; and that SW is educated, sophisticated and articulate. SW claimed that if she was returned to Jamaica she would not go back to living discreetly because after more than seven years in the UK she had changed and she was not prepared to risk her depression returning if she had to live discreetly.

The Secretary of State for the Home Department (SSHD) argued that if SW was returned to Jamaica it was likely that she would live discreetly and that if she did so she would not be at a real risk of persecution; and that doing so would be reasonably tolerable. The SSHD also sought to discredit the expert that gave written and oral evidence because of "his long career as a human rights activist and campaigner, his vigorously expressed criticism of the Jamaican government, in language such as to call into question his objectivity, and the death threats he received in 2001, as a result of which he no longer lived in Jamaica". Overall, the SSHD's submissions on the law were: "that although an open lesbian may attract adverse attention in Jamaica, such attention was not at a level which engaged international protection, in that there is no consistent pattern of ill-treatment. On the facts, the Tribunal should find that the appellant would return to living discreetly, despite her evidence to the contrary; in

²⁶ See www.appg-legalaid.org

²⁷ http://www.bailii.org/uk/cases/UKUT/IAC/2011/00251_ukut_iac_2011_sw_jamaica_cg.html.

her asylum interview she had asserted a fear of people finding out about her sexuality in Jamaica; she had stated that she would not take her present partner to Jamaica because they would not be able to have a relationship in public; and that in any event, there were no other open lesbians in Jamaica with whom she could have a relationship”.

Counsel for SW submitted that she had now fully “come out” as a lesbian in the UK. She could not return to living discreetly in Jamaica and it was unreasonable to expect her to do so, in particular as this would aggravate her depression. It was submitted that the real test was perception of lesbianism as opposed to actual lesbianism and that without any men in her life, SW would be perceived as a lesbian, no matter how discreet her behaviour, and would therefore be at risk. In response to some of the SSHD’s submission, Counsel for SW noted that there was no need to show a consistent pattern of ill-treatment of discreet lesbians and the need to return to discretion in order to avoid ill-treatment was in itself persecutory following the Supreme Court case of *HJ and HT*.²⁸ It was also pointed out that SW would be at risk in her home area but also in any area of internal relocation because a person arriving in a new area would be “assessed” by the local community and conclusion drawn about her sexual orientation on the basis of what she did, who she was with or what she did not do. Therefore the risk is present throughout the country.

The Upper-tier Tribunal concluded that the expert’s evidence could be taken into account because the fact that someone is a human rights activist does not entail a lack of objectivity and that to be a country expert one does not necessarily have to live there or visit regularly. His evidence was also consistent with the other country sources before the Tribunal and therefore significant weight was placed on his description of the attitudes of Jamaican men and the societal treatment of lesbianism in Jamaica. Overall, the Tribunal concluded that the expert could properly be regarded as a country expert on LGBT issues in Jamaica. The Tribunal referred to further country evidence which showed that “levels of criminality and violence in Jamaica are very high overall, and there is ample evidence of attacks on homosexuals and lesbians, including the perception that rape is a method of “curing” sexual orientation. The evidence was that there was no sufficiency of protection: police attending reported attacks on gays arrived slowly, did little, and on occasion joined in on the side of the aggressors”. In terms of the treatment of lesbians in Jamaica, the Tribunal concluded that “in order to live safely in Jamaica, a single woman must present a “heterosexual narrative”, normally involving male friendships and/or children. If a woman had no men friends, local men would indicate their availability and their reactions to rejection would be unpredictable, ranging between walking away and violence, even murder. Mob violence is a problem; jobs can be lost and people driven out of their homes if they were perceived to be gay or lesbian”. The Tribunal also concluded that “open or perceived lesbians are at risk throughout Jamaica”. Counsel for SW’s argument that all lesbians in Jamaica were at risk of persecution due to the risk of being perceived as lesbians was rejected by the Tribunal as lesbians who chose to be “naturally discreet for reasons other than fear do not require international protection”. The country guidance conclusions are as follows:

- (1) Jamaica is a deeply homophobic society. There is a high level of violence overall, and where a real risk of persecution or serious harm is established, the Jamaicans state offers lesbians no sufficiency of protection.
- (2) Lesbianism (actual or perceived) brings a risk of violence, up to and including ‘corrective’ rape and murder.
- (3) Not all lesbians are at risk. Those who are naturally discreet, have children and/or are willing to present a heterosexual narrative for family or societal reasons may live as discreet lesbians without persecutory risk, provided that they are not doing so out of fear.

²⁸ See case summary in Women’s Asylum News, Issue 93, July 2010, p. 5, http://www.asylumaid.org.uk/data/files/publications/138/WAN_July_2010.pdf.

- (4) Single women with no male partner or children risk being perceived as lesbian, whether or not that is the case, unless they present a heterosexual narrative and behave with discretion.
- (5) Because the risks arise from perceived as well as actual lesbian sexual orientation, internal relocation does not enhance safety. Newcomers in rural communities will be the subject of speculative conclusions, derived both by asking them questions and by observing their lifestyle and unless they can show a heterosexual narrative, they risk being identified as lesbians. Perceived lesbians also risk social exclusion (loss of employment or being driven from their homes).
- (6) A manly appearance is a risk factor, as is rejection of suitors if a woman does not have a husband, boyfriend or child, or an obvious and credible explanation for their absence.
- (7) In general, younger women who are not yet settled may be at less risk; the risk increases with age. Women are expected to become sexually active early and remain so into their sixties, unless there is an obvious reason why they do not currently have a partner, for example, recent widowhood.
- (8) Members of the social elite may be better protected because they are able to live in gated communities where their activities are not the subject of public scrutiny. Social elite members are usually from known families, wealthy, lighter skinned and better educated; often they are high-ranking professional people.

The Tribunal accepted SW's evidence that she would continue to live openly as a lesbian if she was returned to Jamaica, even if this put her at risk of physical violence. The Tribunal identified that she has no heterosexual narrative to support her now and that she is not now "naturally discreet" so that any return to discreet living would be because of her fear of persecution as opposed to a response to social pressures. Overall, the Tribunal found that SW established a risk of persecution on return to Jamaica and that the Refugee Convention is engaged. The SSHD had conceded that the State is unable or unwilling to protect lesbians if they were at risk of persecution or serious harm. Internal relocation, the Tribunal said, is a question of fact but in this case, she would not be able to avoid the risk of persecution if she relocated internally. Consequently, the Tribunal allowed SW's appeal on asylum grounds and article 3 ECHR.

European Court of Human Rights declares inadmissible case by applicant who claimed asylum on basis of risk of FGM to daughters

Enitan Pamela IZEVBEKHAL and Others v Ireland - 43408/08 [2011] ECHR 869 (17 May 2011)²⁹

The applicant, Ms Enitan Pamela Izevbekhali, is a Nigerian national who claimed asylum in Ireland in 2005 on the basis that her two daughters were at risk of FGM if returned to Nigeria. She claimed that her first daughter had died as a result of complications following the procedure being carried out on her in Nigeria. She did not report the death of her daughter to the police because she deemed that the police would not interfere in what was considered a family tradition. The Refugee Applications Commissioner refused Ms Izevbekhali's application on the basis that there was no credible evidence of a well-founded fear of persecution in Nigeria or sufficient evidence to show that they would encounter persecution should they return or that state protection would be withheld. Ms Izevbekhali's appeal was refused by the Refugee Appeals Tribunal on the basis that they had failed to demonstrate to a reasonable degree of likelihood a well-founded fear of persecution. The Minister for Justice,

²⁹ <http://www.bailii.org/eu/cases/ECHR/2011/869.html>.

Equality and Law Reform signed deportation orders in November 2005 for the applicant and her two daughters. In January 2006, the applicant and her daughters applied for leave to apply for judicial review. This was granted by the High Court in November 2006 on the basis that there were substantial grounds for challenging the deportation orders. In its judgment of January 2008, the High Court dismissed the judicial review claim and leave to appeal to the Supreme Court was refused. At the end of 2008, the Minister re-opened previous investigations in Nigeria into the case due to significant domestic publicity regarding Ms Izevbekhai's case. In March 2009, the Minister submitted that the documents submitted by the applicant regarding the birth, death and cause of death of her first daughter were forgeries. In March 2009, Ms Izevbekhai responded that she did not know the documents were forgeries and maintained her position regarding her first daughter and the cause of her death.

Ms Izevbekhai's application to the European Court of Human Rights was that there was a real risk that her two daughters would be exposed to FGM if they were returned to Nigeria in breach of article 3 ECHR.³⁰ This was based on her specific family history (numerous threats and a kidnapping attempt as well as the death of her first daughter) and her husband's powerful family who wanted the daughters to be subjected to FGM. The Irish Refugee Council and Interights made detailed submission to the European Court of Human Rights on this application and argued that in light of Ms Izevbekhai's family history, and the situation surrounding FGM in Nigeria, there were substantial grounds for believing that there was a real risk of FGM for her daughters if they were returned to Nigeria. Interights also argued that internal relocation was not an option for Ms Izevbekhai and her two daughters. Ms Izevbekhai also argued that returning them to Nigeria would be a breach of articles 6, 13 and 14 ECHR in relation to the domestic remedies available to them in the asylum procedure in Ireland.

The European Court of Human Rights declared the application inadmissible because manifestly ill-founded. The Court noted that "it is not in dispute that subjecting a child or adult to FGM would amount to ill-treatment contrary to Article 3 of the Convention. Nor is it contested that girls and women in Nigeria have traditionally been subjected to FGM and, to varying degrees depending on their ages and the region of Nigeria, continue to be. The crucial issue for present purposes is whether the second and third applicants would face a real risk of being subjected to FGM upon their return to Nigeria". The Court considered the legal position on FGM in Nigeria and its reported average rate in the different states of the country. Considerable weight was placed by the Court on the joint British/Danish mission which investigated the issue with the international bodies and NGOs active against FGM in Nigeria. The Court noted in particular that "it is true that many State reports underline the absence or low level of legal action (including prosecutions) to enforce the above-described legislative prohibitions and that rather mixed views were expressed to the joint mission about the potential for police support of women escaping FGM. However, the federal Government publicly oppose FGM and its Ministry of Health and Ministry of Women's and Social Affairs work against FGM. Representatives of the UN organisations as well as the main NGOs (including BAOBAB) reported to the joint mission that internal re-location to escape FGM was indeed an option in Nigeria; that NGOs are active in supporting, including physically protecting, women re-locating to escape FGM; and that the federal Government provide direct protection to such women as well as support to NGOs taking such protective measures. Against this background the applicants' suggestion, without more, that Nigerian Government officials threatened certain doctors (submitted to the Supreme Court) and criticised her (submitted to this Court), cannot be considered substantiated or material. Moreover, neither the UN nor NGO representatives indicated any material risk of those re-locating being tracked down by families, not least given the size and population of Nigeria. Most importantly, both UN and NGO representatives emphasised to the joint mission that successful re-location, including taking the fullest advantage of the support and protection mechanisms available in Nigeria, depended to a large extent on favourable personal circumstances including levels of education, family support and financial resources".

³⁰ "No one shall be subjected to torture or to inhuman or degrading treatment or punishment".

Consequently, the Court considered Ms Izevbekhai's personal circumstances in Nigeria. In relation to the disputed fact of the death of her first daughter following FGM, the Court highlighted the need to give asylum seekers the benefit of the doubt when assessing the credibility of their claim and the supporting evidence but that if information was brought forward which gave strong reasons to doubt the veracity of the claim then asylum seekers must provide a satisfactory explanation for the alleged discrepancies or their credibility will be undermined. The Court concluded that Ms Izevbekhai failed to adequately respond and address the issues raised by the Irish Government regarding the forged documents. Overall, the Court found that Ms Izevbekhai's "response to the core issue of credibility to be unsatisfactory". Noting that these findings considerably weakened her credibility, the Court determined her application with regards to her personal circumstances which were not in dispute. The Court said: "The applicants accept that their family is in a financially and socially privileged position in Nigeria. The first applicant's husband is a businessman who regularly travels abroad including to the UK. The first applicant had second and third level education and professional experience. They had sufficient resources to have a large house, the use of cars, house help and to travel abroad The first applicant's husband and mother are against FGM, as is her father who is also a civil servant. No attempt was made by the first applicant or her husband to report any issue concerning their daughters and FGM to the police. No attempt was made to obtain the assistance of the first applicant's father, of her sibling brothers, of any of the international organisations and/or NGOs active against FGM in Nigeria or of the Ministry of Health or the Ministry of Women's and Social Affairs. Importantly, and notwithstanding the applicants' considerable familial and financial resources, no attempt was made by them to relocate (using available State and State-supported protection mechanisms as necessary) to northern Nigeria, a substantial distance from Lagos. In this region, the rate of FGM is significantly lower than in other regions and, in certain States thereof, FGM is practiced very rarely".

Therefore the Court concluded that Ms Izevbekhai and her husband would be able to protect their daughters from FGM if they were returned to Nigeria. The Court also dismissed the application under article 6(1) ECHR³¹ because this provision does not apply to decisions regarding the entry, stay and deportation of non-nationals. The Court found the application under article 14 ECHR³² manifestly ill-founded on the basis that the Irish procedures set up to examine immigration issues were not shown to have a discriminatory effect. Finally, the application under article 13 ECHR³³ was also rejected as the requirement for a remedy in domestic law can only be invoked in respect of an arguable claim of a violation of the Convention.

Police duty to investigate allegations of trafficking

OOO & Ors v The Commissioner of Police for the Metropolis [2011] EWHC 1246 (QB) (20 May 2011)³⁴

This is the first case in England and Wales which considers the scope of the police's duty to investigate alleged breaches of articles 3³⁵ and 4³⁶ ECHR. This case concerned four women from

³¹ "In the determination of his civil rights and obligations or of any criminal charge against him, everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law. Judgment shall be pronounced publicly by the press and public may be excluded from all or part of the trial in the interest of morals, public order or national security in a democratic society, where the interests of juveniles or the protection of the private life of the parties so require, or the extent strictly necessary in the opinion of the court in special circumstances where publicity would prejudice the interests of justice".

³² "The enjoyment of the rights and freedoms set forth in this Convention shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status".

³³ "Everyone whose rights and freedoms as set forth in this Convention are violated shall have an effective remedy before a national authority notwithstanding that the violation has been committed by persons acting in an official capacity".

³⁴ <http://www.bailii.org/ew/cases/EWHC/QB/2011/1246.html>.

³⁵ "No one shall be subjected to torture or to inhuman or degrading treatment or punishment".

³⁶ "No one shall be held in slavery or servitude. No one shall be required to perform forced or compulsory labour".

Nigeria who had been trafficked to the UK as children for domestic servitude. The women brought a claim against the Commissioner of Police for the Metropolis requesting compensation for the failure to investigate the intelligence provided to the police that several young women had been trafficked from Nigeria and held in servitude in North London. The Metropolitan Police Service (MPS) accepted that the women had been victims of treatment which was in breach of their human rights under articles 3 and 4 ECHR. However, the MPS disputed that its officers had breached those rights as a consequence of a failure to investigate the women's complaints. The fact that an investigative duty under articles 3 and 4 ECHR exists was not in dispute.

Mr Justice Wyn Williams considered in detail the background and evidence provided by the women and other witnesses, the police and all the police officers involved at some point with the women. One of the claimants had also brought separate proceedings in which the MPS agreed to pay her damages of £25,000 and had apologised to her for falling below the requisite standard by failing to investigate the circumstances which led her to attend the police station at Southgate in 2004. Wyn Williams J also considered the circumstances of three other Nigerian women (not parties to this case) who had claimed to have suffered similar treatment to the four claimants in the present case.

In November 2008, the claimants instructed their current solicitor who wrote to the MPS seeking a criminal investigation against the claimants' abusers. By December 2008, the MPS said they were willing to undertake an investigation of the women's complaints.

It was accepted that articles 3 and 4 ECHR impose positive obligations on the police, including the obligation to prevent a person from being subject to treatment prohibited by articles 3 and 4 ECHR. Wyn Williams J considered the case of *Osman*,³⁷ which although concerned with the preventive duty under article 2 ECHR, was accepted to be equally applicable to the preventive duty which arises under articles 3 and 4 ECHR. However, he concluded that the *Osman* test was not directly applicable in this case as it was concerned with a failure to prevent a breach of article 2 ECHR whereas in the present case, the women had already been subjected to treatment contrary to articles 3 and 4 ECHR and the police had failed to investigate the abuse. Wyn Williams J went on to consider the case of *Rantsev v. Cyprus and Russia*.³⁸ This case was brought by a father whose daughter had been trafficked from Russia to Cyprus and he complained about the lack of investigation into his daughter's death. Wyn Williams J set out that "a duty to investigate urgently will arise if the alleged victim is still in a harmful situation. Otherwise the duty is to act promptly or with reasonable expedition". Subject to the caveat that "the duty to investigate in a particular case may have to take account of priorities and resources", the "duty to investigate will be triggered once the police receive a credible allegation that articles 3 and/or 4 (as the case may be) have been infringed however that information comes to their attention". Wyn Williams J specifically noted that as a matter of principle the absence of an identified victim does not preclude the duty to investigate from arising. He rejected the MPS' argument that the police would have to be grossly negligent before a breach of articles 2, 3 and 4 ECHR could be found. He noted however that "the acts or omissions of the public authority must be scrutinised with care; that a court should be slow to criticise positive acts or decisions for which a reasoned justification is advanced and that the judgment of a public authority upon issues such as priorities and resources must be respected and will ordinarily be accepted by a court". Wyn Williams J was satisfied that the Paladin officers were in breach of the investigative duty which arose in July 2006. The MPS' defence that this was because the claimants were unwilling to cooperate was untenable according to Wyn Williams J. He therefore concluded that "there can be no doubt that as from this period of 2007 the Claimants were victims of the failure to investigate. Their names were known to the police; they wanted their complaints to be investigated. They were directly affected by the failure to carry out an effective investigation".

When considering remedies available to the claimants, Wyn Williams J noted that in the absence of threat of legal action taken by the claimants' solicitors, there would have been no offer to investigate the claimants' complaints. The claimants were therefore entitled to a declaration to the effect that their

³⁷ <http://www.bailii.org/eu/cases/ECHR/1998/101.html>.

³⁸ <http://www.bailii.org/eu/cases/ECHR/2010/22.html>.

human rights were breached. The claimants also claimed compensation for non-pecuniary loss because they suffered distress and frustration on account of the failure to investigate. The European Court of Human Rights recognises substantial distress and frustration as being conditions which justify an award of compensation where there has been a failure to investigate breaches of article 3 ECHR. Wyn Williams J has therefore adopted the same approach to the failure to investigate a breach of article 4 ECHR and concluded that to give just satisfaction to the claimants an award of damages was necessary. He thus awarded each of the claimants £5,000.

National News

Government announces amendment that will keep domestic violence applications under the Immigration Rules within the scope of legal aid

The following is an excerpt from the debate by the Public Bill Committee on 19 July 2011:

Mr Djanogly: My hon. Friend [Ben Gummer MP] makes a good point. The matter of including cases brought under the immigration domestic violence rule in the scope of civil legal aid was raised a great deal during the consultation, and we considered the point carefully. Although we accepted that the applicants in such cases were vulnerable, we did not think, on balance, that legal aid was required, essentially because the applications, similar to other immigrant applications, were paper-based. We recognised that people might need assistance with obtaining the required documentary evidence, but we considered that such assistance need not be specialist legal assistance funded by legal aid.

After further consideration, however, we accept that such cases are unusual. There is a real risk that, without legal aid, people will stay trapped in abusive relationships out of fear of jeopardising their immigration status. The type of trauma that they might have suffered will often make it difficult to cope with such applications. We also appreciate that people apply under great pressure of time, and access to a properly designated immigration adviser is a factor. We intend to table a Government amendment to bring such cases into scope at a later stage.

To read the full debate on the Legal Aid, Sentencing and Punishment of Offenders Bill, see: <http://www.publications.parliament.uk/pa/cm201011/cmpublic/legalaid/110719/pm/110719s01.htm>.

The Government launches new trafficking strategy

The Home Office states that the strategy puts “renewed focus on preventing human trafficking overseas, before the harm can reach the UK, while maintaining and improving care arrangements for adult victims at home”. The Home Secretary has explained that the new strategy has four key aims: international action to stop trafficking happening in the first place; stronger UK borders to prevent victims entering the UK; tougher law enforcement action against criminal gangs; and improved identification and care for the victims of trafficking. Despite initial reluctance to opt-into the EU Directive on human trafficking,³⁹ the Home Secretary now notes that the UK has demonstrated its commitment to working with other countries in Europe to drive up standards across the continent in tackling trafficking.

³⁹ For more information about the EU Trafficking Directive and the UK's position see Women's Asylum News, March 2011, Issue 100, p. 7, http://www.asylumaid.org.uk/data/files/publications/157/WAN_March_2011.pdf, Women's Asylum News, November 2010, Issue 97, pp. 1-4, http://www.asylumaid.org.uk/data/files/publications/148/WAN_November.pdf and Women's Asylum News, September 2010, issue 95, p. 10, http://www.asylumaid.org.uk/data/files/publications/142/WAN_September.pdf.

A coalition of charities has stated that the strategy focuses too much on border controls at the expense of victim protection. ECPAT UK, Anti-Slavery International and Stop the Traffik note that the strategy does not contain sufficient details to ensure effective protection for victims of trafficking. They also state that the strategy fails to address the particularities of child trafficking and that the focus on “source countries” fails to acknowledge that most traffickers already live in the UK. ECPAT UK is calling on the Government to introduce a system of guardianship for trafficked children, a special protection measure within the European Directive. Anti-Slavery International said that “we need to ensure that it is the traffickers, not their victims, who are punished. As practiced until now UK policy has resulted in victims being arrested and deported, rather than protected and given the opportunity to support police with their investigations”. Stop the Traffik highlighted the strategy’s focus on victims’ immigration status instead of their status as victims of human rights abuses.

To read the strategy, see: <http://www.homeoffice.gov.uk/publications/crime/human-trafficking-strategy?view=Binary>.

To read the charities’ response, see: <http://www.ecpat.org.uk/media/focus-government%E2%80%99s-new-trafficking-strategy-will-not-help-victims>.

International News

Armenia: LGBT Persons continue to face discrimination

A Council of Europe study has found continued levels of discrimination against lesbian, gay, bisexual and transgendered persons in Armenia, and across the South Caucasus region. Armenia, which joined the Council of Europe in 2001, was the last of the member states to decriminalize homosexual male sex, but still does not recognize same-sex marriages or partnerships, and refuses to grant LGBT persons the right to adopt. Surveys among the Armenian population have found high levels of prejudice: 87% of people asked said they would not want a gay or lesbian neighbour. This was the same level as Turkey and only slightly more than Georgia, where 84% of people felt the same. There is some hope that things may change- the NGO Public in Need of Information and Knowledge (PINK) has signed a memorandum with Armenia’s Human Rights Ombudsman on the protection of LGBT rights but it remains to be seen what progress can be made.

To read the full article, see: <http://www.msmgf.org/index.cfm/id/11/aid/3990>.

To read the full report, see: http://www.coe.int/t/Commissioner/Source/LGBT/LGBTStudy2011_en.pdf.

Central African Republic: Women in remote areas lack knowledge and access to rights

Aid workers have highlighted the violent dangers women are facing in remote north-eastern areas of the Central African Republic, as fighting has renewed between the government and the Convention of Patriots for Justice and Peace (CPJP) rebels. Furthermore, people, and women in particular, are too scared, too distrustful or too lacking in basic knowledge of their rights to approach security forces to seek justice. Legal clinics, set up by the Danish Refugee Council and the Association for Women Lawyers of Central Africa (AFJC), have gone some way to tackling problems in some of the most remote and affected areas of the country, such as Ouham, Ouham Pende and Bamingui Bagoran. The clinics, led by AFJC lawyers and supported by paralegals, provide vital education and legal support to communities as well as psychosocial support to survivors of gender based violence. They also conduct awareness training with local authorities, religious and community leaders and security forces. However there is still a lot of work to be done, says Fornelle Pouto, secretary-general of AFJC, especially in the face of continued presence of armed forces in places like Ndélé in Bamingui

Bangoran. Due to the instability there are no judges in the region, making justice seem elusive to its residents.

To read the full article, see: <http://www.irinnews.org/report.aspx?reportID=92565>.

Finland/Worldwide: Difficulties faced on arrival by refugee women

The UNHCR has completed its series of regional dialogues with refugee women that began in India in November and finished in Finland in May, following talks with hundreds of women in Africa, Asia, Europe, the Middle East and the Americas. Refugee women in Finland spoke of the isolation they faced on arrival which, following experiences of rape and separation from their families, was very difficult to overcome. Not knowing the Finnish language was highlighted as the most isolating factor compounded by waiting in reception centres for months or years before a decision was made. The UNHCR will use these dialogues to feed into a meeting in Geneva in December 2011 for ministers from across the globe.

To read the full article, see: <http://www.unhcr.org/4ddd15f26.html>.

Kenya: Government struggle to end child sex tourism

The Kenyan government is facing a difficult fight to end the sex tourism involving children prevalent in its coastal towns. A 2006 report conducted by the government and the UN Children's Fund found that 30 per cent of teenage girls living in the coastal towns of Diani, Kilifi, Malindi and Mombasa were engaged in casual sex work while more than 10 per cent started in the trade before the age of 12. These teenagers are sold to tourists by 'beach boys' who receive large commissions from tourists looking for the right girl. The large sums of money involved mean that the trade is seen as a way out of poverty by many young girls. The problem is exacerbated by parents who can rely on the wages brought in by daughters to either supplement or provide fully for their families. Grace Odembo, a field coordinator with the NGO Solidarity with Women in Distress (SOLWODI) claims that girls who have had little formal education see no other chance of more legitimate employment. Her NGO tries to alleviate the situation by offering microfinance loans alongside counselling but their limited resources mean that the income from wealthy tourists remains the most attractive option for some girls. Odembo is calling on the Kenyan government to provide more rescue centres and solutions for keeping young girls in school. The government is certainly keen to end this problem as they say the continued trade has meant the Kenyan coast is now seen as a sex destination and is putting off reputable tourists and investors. James Weru, of NGO African Pro-poor Tourism Development, also argues that tourism is a key issue, but claims that if the government were to more equally distribute the income Kenya gains from tourism among locals, this might remove the need for some girls to enter the sex trade.

To read the full article, see: <http://www.plusnews.org/report.aspx?reportID=92603>.

South Africa: Desperate need for anti-trafficking laws

South Africa has failed to introduce the anti-trafficking legislation it promised to bring in as part of signing a 2000 UN protocol. The Palermo Protocol commits signatories to adopt legislation to prevent and punish human trafficking. While the South African government began drafting a law in 2003, it only got to parliament in March of last year. No clear directions have been given on when the Prevention and Combating in Trafficking in Persons (TIP) Bill is expected to be passed. As South Africa is a major destination for those involved in the human trafficking trade this legislation is desperately needed; a recent US State Department report has identified this lack of legislation as the "greatest hindrance to anti-trafficking efforts in South Africa". These efforts involve using other laws designed to target other sexual, employment and organised crime offences but the penalties are often

not proportionate to the severity of human trafficking crimes. Efforts are further hindered by the lack of exact knowledge about the extent of human trafficking in the country. Different government departments have collected conflicting statistics and the confusion over which offences can be categorised as human trafficking has complicated the issue.

The definition of human trafficking contained in the TIP Bill challenges misconceptions (perpetuated by media reports) that human trafficking only applies to women and children forced to cross borders as part of a sex trade. The Bill makes clear that trafficking in human beings can be internal, moving from different regions, rather than across borders. The bill also seeks to combat the coercive methods used by traffickers to lure both women and men into situations whereby they can become used for forced labour or servitude, not just sexual exploitation. While legislation will not guarantee sufficient support for victims (as seen in Mozambique and Zambia), there are signs that various South African government departments are prepared to take the necessary steps to ensure they do. The International Organisation for Migration, for example, has been engaged to train civil servants on how best to identify and assist victims. Nothing can be done, however, until laws have been passed.

To read the full article, see: <http://www.irinnews.org/report.aspx?reportID=93104>.

South Sudan: A new country brings celebration, but violence against women continues

While independence is bringing cause for celebration in South Sudan, the continued acts of devastating violence and committal of gross violation of human rights towards women perpetrated by soldiers are cause for grave concern. Activists are calling for urgent steps to be taken to prevent further incidences of the widespread and unchecked violence towards women that has been tolerated in the country as a result of the over 21-year- long civil war with North Sudan. Human Rights for the Vulnerable, a South Sudanese NGO, and the International Rights Committee (IRC), have highlighted the dangers that continued fighting in the border states of South Kordofan and Abyei poses for women but also the dangers they face from their husbands, and more internally within South Sudan, due to ethnic or tribal fighting. Those that have suffered physical or psychological abuse have little recourse to justice or access to support or health services for victims. IRC found that almost 52% of victims did not report the crime, fearing further abuse from their husbands or soldiers, as well as shame or retribution from their community and wider society. The new government has been urged to set up a tribunal to investigate the extent of human rights abuses, as well as to bring in gender-specific laws that it is hoped will protect women and children and prevent what is a rife and devastating problem .

To read the full article, see: <http://www.ips.org/africa/2011/07/corrected-repeat-south-sudan-born-into-crisis-8211-violence-against-women-continues/>.

USA: Rights of immigration detainees to protection from rape should not be ignored

Human Rights Watch have welcomed the prosecution of a Texas prison guard charged with sexually abusing a detained immigrant, but have called on the US government to introduce measures giving immigration detainees the same rights to protection from rape as other prisoners. Edwin Rodriguez, who worked at the Willacy Detention Centre in Raymondville, Texas faces up to 15 years in prison if found guilty. The Prison Rape Elimination Act (PREA) introduced in 2003 specifically does not cover those facilities “primarily used for the civil detention of aliens pending removal from the United States”. The National Prison Rape Elimination Commission, an expert body created under the PREA, has stated strongly that this exclusion is wrong, that immigration detainees face unique problems and should be protected accordingly. Human Rights Watch (HRW) and ten other organisations wrote to

President Obama earlier this year asking him to urgently redress this issue, highlighting the history of sexual assault in immigration detention and the discrepancy it poses alongside other detention reforms currently being enacted by his administration. They have yet to receive a reply. In 2010, HRW collated and reported over 50 examples of sexual assault and harassment in Immigration and Customs Enforcement (ICE) detention centres since 2003. HRW emphasised that fear and intimidation felt by detainees made this number likely to be an underestimate of the actual number of cases. The Willacy centre itself was investigated in 2009 following allegations of sexual abuse but the results of this investigation were never made public. Meghan Rhoad, women's rights researcher at Human Rights Watch said that the US government can no longer ignore this issue and called once again for the Obama administration to act.

To read the full article, see: <http://www.hrw.org/en/news/2011/06/24/us-protect-against-rape-immigration-detention>.

New Publications

Migrants in an irregular situation employed in domestic work: Fundamental rights challenges for the European Union and its Member States

European Union Fundamental Rights Agency, July 2011

European Union Fundamental Rights Agency has produced a report detailing accounts of the treatment of domestic workers with irregular immigration situations which they have described as "chilling". The report includes accounts of physical and sexual violence perpetrated by employers as well as health-threatening overwork. 72 citizens of 28 countries working without status in 10 EU countries were interviewed for the report which has recommended that immigration controls be loosened where there is a shortage of domestic workers. This would enable these workers, mostly women, to work legally and therefore demand that their fundamental human rights be respected. Due to their irregular status, these workers are unlikely to turn to the authorities and are therefore at risk of suffering in silence.

To read the full report, see:

http://www.fra.europa.eu/fraWebsite/research/publications/publications_per_year/2011/pub_domestic-workers_en.htm.

Reports on an unannounced inspection of the short-term holding facility at: Heathrow Airport Terminal 3 and Heathrow Airport Terminal 4

HM Chief Inspector of prisons, 3 March 2011

The Chief Inspector of Prisons published two reports after an unannounced visit reveal poor detention conditions and several possibly unlawful practices at Heathrow airport's short-term detention facilities in Terminal 3 and Terminal 4. The reports raise concerns about detention conditions over longer periods, since no beds are available. Furthermore, the staff is predominantly male even though one third of the detainees at Terminal 3 and a quarter at Terminal 4 are women. The reports also criticise the staff's inadequate knowledge of the referral system for identifying victims of human trafficking and the very limited access of detainees to legal advice. Questions were also raised on the legality of the detention of children and how they are registered. For instance, a European child who was accompanying his Syrian father, was detained but listed as a visitor, and thus not accounted for in data on child detention.

The Chief Inspector of Prisons issued a long list of recommendations to the UK Border Agency and to the facilities and escort contractors, aiming to improve conditions in the Terminals. Recommendations range from using more “appropriate and sensitive approaches to managing and addressing people being removed” to better implementing basic reception standards such as separation of men and women, use of family rooms, and distribution of adequate food and drinks. The reports also recommend offering detainees information in a language they can understand and respecting detainees' right to a free phone call.

To read the full reports, see: <http://www.justice.gov.uk/downloads/publications/inspectorate-reports/hmipris/heathrow-terminal-3-sthf.pdf> and <http://www.justice.gov.uk/downloads/publications/inspectorate-reports/hmipris/heathrow-terminal-4-sthf.pdf>.

Benefits for Migrants Handbook: 5th edition

Pamela Fitzpatrick, Timothy Lawrence and Colin McClosky for Child Poverty Action Group, January 2011

Now in its 5th edition this guide to financial support for people from abroad is indispensable for those offering welfare and legal advice to migrants, including asylum seekers. Part 1 provides a brief outline of the immigration system and Part 4 provides information on the support available to asylum seekers. It provides a background to the different types of leave to remain asylum seekers may be granted and some of their entitlements. It also outlines who is entitled to asylum support and why support may be withheld. It includes thorough sections on Section 4 support. Furthermore, it includes a guide to EU law and how it affects migrants' rights to benefits in the UK.

An online version has also been created. Both can be ordered from CPAG at: www.onlineservices.cpag.org.uk/shop. Questions should be directed to the publications team on bookorders@cpag.org.uk or 0207 837 7979.

UK Training and Events

Fit for Purpose ***By Catherine O'Shea. Directed by Tanja Pagnuco***

The Pleasance and End Child Detention Now present this year's Charlie Hartill Award winning play.
3-29th August, 12.45 Pleasance Courtyard, Attic, Edinburgh
(Panel Discussion 15th August instead of performance)
Tickets: £10 (£8) Weekends £9 (£7) Weekdays

Inspiration: In January 2010 fifty female asylum seekers' who were being held in the notorious Yarl's Wood detention centre went on hunger strike to protest at the conditions they and their families had to endure. This ended 5 weeks later with violence and women being removed to Holloway prison. This new play *Fit for Purpose* tells the story of Aruna and Kaela a Somali mother and daughter who are detained in Yarl's Wood at the start of the strike. The extreme stress of their journey and subsequent mistreatment by the UK Border Agency makes Aruna retreat into herself while her thirteen year old daughter tries to understand what is happening

Box Office: 0131 556 6550
press@pleasance.co.uk

Charter of rights of women seeking asylum



Endorsements: 262

Google group membership: 146

WAST Manchester are marching to UKBA offices in Liverpool to demand changes to the asylum process

WAST Manchester calls for supporters to march with them on Friday 29th July in Liverpool from St Georges Square (12pm) to the Liverpool UKBA office to hand in their demands for changes to the immigration system, followed by a rally at St. Georges Square at 2-2.30 pm with speakers from the WAST group. This is an attempt to challenge UKBA to recognize the suffering of women in WAST and other women asylum seekers in Britain today, and to improve the asylum system.

About the WAST Group

WAST (Women Asylum Seekers Together) is a self-led, self-help, gender-specific group which has developed through women asylum seekers getting together to support one another through the dehumanising, disempowering and frightening process that is Britain's immigration system.

Development of the Demands and the March

WAST runs a weekly drop in and support group for 60 women and children, and an anti-deportation group of 25-30 women who run anti-deportation campaigns. This is a strong dynamic working group who support one another, writing petitions, contacting MPs, sharing information and organising WAST awareness-raising workshops for public service providers.

This group wanted to do more and developed the idea of a public march to highlight the different injustices experienced by individual women in their asylum histories. A list of demands was put together using Asylum Aid's publication "Unsustainable" as a framework, to which they added from their own experience.

WAST Demands

WAST's full list of demands are available on their website. These include:

- Ensure access to good quality legal aid lawyers.
- Recognise that our children are suffering because of the home office's treatment of us and uphold their human rights as children.
- Ensure that women with disabilities are adequately housed and not discriminated against in the asylum system because of their disability.
- Recognise the importance of our family support networks in our survival.

The full text of the demands is available on the WAST website <http://www.wast.org.uk/>. Please publicise the demands to your MP, and to any media or other useful contacts. For further information about WAST see their website or email WAST at wastmanchester@yahoo.co.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:

Name:
Address:
.....
Postcode:
Telephone:
Email:
I want to make a one-off gift of £

(please make cheques payable to Asylum Aid) *giftaid it*

Your Gift Aid declaration

If you are a UK taxpayer, the value of your donation can increase by at least 25% under the Gift Aid scheme — at no additional cost to you! Please tick the box below to join the Gift Aid scheme.

I confirm that I am a UK taxpayer and that I pay as much income or capital gains tax as Asylum Aid will reclaim in the tax year. Please treat all donations I make or have made to Asylum Aid for the past four years as Gift Aid donations until further notice.

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