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# Women's Asylum News

Women's Project at Asylum Aid

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## Trauma and credibility in the asylum process: evidence to help women asylum seekers

*Clare Cochrane, Women's Research Dissemination Worker at the Centre for the Study of Emotion and Law (CSEL) has written this article on the centre's research and its uses within the asylum determination process.*

The Centre for the Study of Emotion and Law was founded in 2007 in order to bring the findings of empirical, psychological research into legal decision making. Our research to date has focused on the asylum system, and last year Comic Relief awarded us funding to take our research findings to the voluntary sector, to ensure that more organisations can access our research in their work to help get a fairer asylum process for traumatised women seeking protection in the UK.

In order to be able to use research findings in a legal context (i.e. as part of someone's asylum application or appeal), it is important that that research is credible. Empirical research conducted by an independent body and published in high quality academic journals is more likely to be understood within the legal system to be reliable. So although some of the findings of CSEL's research will not come as news to many who have applied for asylum or supported refugees, as empirical research

findings, published in peer-reviewed journals, they are more likely to be taken seriously by the authorities and judiciary.

People who apply for asylum in the UK face a number of serious challenges. One is the question of their personal credibility. Refugees often have little or no documentation to corroborate their stories, so it is inevitable that decision makers will sometimes base their decisions on how believable they find someone's story to be. Imagine you're the decision maker. In front of you is a person who says they come from one country, but is carrying false travel documents from another country; they say they've experienced torture, but have no physical scars; they say it was bad, but they won't tell you all the details, and they seem to clam up or drift off part way through telling their story. How would you make a judgement in this situation?

These decisions about credibility are often based on untested assumptions about behaviour, and on mistaken beliefs about how memory works. Two commonly held beliefs are that a true story does not change when it is re-told, and that a true story leaves nothing out. So when someone seeking asylum presents stories that contain discrepancies, with differences between what they said in their first and second Home Office interviews, they are often automatically disbelieved.

This is a particular problem for women seeking asylum, for whom telling their stories fully and consistently is fraught with problems. For a start, women who submit independent claims often do so because they are seeking asylum alone, for gendered reasons, which may well involve sexual violence. It is well known in the criminal justice system that women who are traumatised as a result of experiencing sexual violence find it very difficult to recall and relate events in the way that the legal system expects them to.

CSEL has conducted academically rigorous research into the incidence of discrepancies in refugees' stories, and the difficulties posed by the symptoms of trauma that prevent refugees from recounting their stories. The results of our research have shown that the assumptions about credibility on which decision makers base their refusal of asylum claims are not reliable.

For example, one common belief is that a true story does not change when it is retold. CSEL investigated this through a piece of research that focused on the discrepancies that occur in refugees' accounts of their experiences. The researchers interviewed 39 Bosnian and Kosovan refugees about traumatic experiences, on two occasions each, and recorded the discrepancies (differences) between the two accounts. All 39 interviewees had been granted refugee status as a group; none had been through the individual asylum process, and therefore could be assumed to have no reason to deliberately falsify their accounts.

The research found that when people are interviewed more than once, the details they give in their accounts are likely to change between interviews. This is especially true for what interviewees consider to be peripheral (or minor) details (and 'peripheral' is a subjective evaluation - what is peripheral to one person is a central detail to another). They also found that for those with the highest levels of post traumatic stress symptoms, a long delay between interviews was likely to mean more differences between their accounts. These findings strongly suggest that the simple existence of discrepancies in someone's story cannot be enough on its own to suggest that they are falsifying their account of their experiences.

One of the things that came up in the discrepancies research was that many of the symptoms of post-traumatic stress disorder make it difficult for a person to recall traumatic events clearly. This is all too often the case for women who have experienced sexual violence. To better understand these barriers to disclosure, CSEL interviewed 27 refugees and asylum seekers who had experienced violence, and asked them what had made it easy or difficult to talk about their experiences in their Home Office interview. About half the interviewees had experienced sexual violence. The research found that:

- Perhaps surprisingly, the majority disclosed their experience for the first time in the Home Office interview – because they found the experience so difficult to talk about, they had not told anyone before finding themselves in an interview situation where they felt their life depended on telling the full story;
- Despite the significance of the Home Office interview, 10 of the interviewees found the story so difficult to tell, they did not tell it in full on this occasion;
- Whether they were ultimately able to tell their story or not, in full or in part, the study participants reported a number of difficulties disclosing in the Home Office interview - they were not given a chance to tell their stories in full; they felt traumatised and ashamed; they experienced dissociation during the interview (temporarily 'cutting off' from the situation); or they were actually cut short by the interviewer.

The study also found that people who had experienced sexual violence were more likely to suffer from post traumatic stress symptoms – regardless of whether they had actually been diagnosed with PTSD – such as mood changes, intrusive memories (flashbacks), and dissociation (cutting out). These can all get in the way of giving an accurate and full account of an experience.

How can CSEL's research make a difference to those who work with refugees and asylum seekers? Obviously for legal representatives these research findings can be very helpful in a number of ways, for example, they can aid in commissioning medico-legal reports; in compiling documents for submission to the UK Border Agency or an immigration judge in an appeal case; rebut negative findings of credibility; explain inconsistencies between Home Office interviews and witness statements; and in empowering clients to better understand what they are going through. Those involved in violence against women projects and refugee support groups can use knowledge of this research to better understand what the women they work with are going through, anticipate the challenges they may face, help them to self-advocate and advocate for their rights, help them talk to their legal advisors or if necessary liaise on their behalf; help people prepare for interviews, and more.

All of CSEL's research is available in the publications section of our website: [www.csel.org.uk](http://www.csel.org.uk) . But if you are not familiar with academic research, it can be hard to understand at first. Thanks to Comic Relief, we also run free training seminars for the voluntary sector in how to understand the research and make best use of it. If you work or volunteer in an RCO or violence against women project or work as a legal representative just get in touch with [c.cochrane@csel.org.uk](mailto:c.cochrane@csel.org.uk) to book a place. We can also speak at your local refugee forum, at your organisation's AGM, or at conferences – contact us with dates and we will see if we can come along.

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For more information on the Centre for the Study of Emotion and Law, see [www.csel.org.uk](http://www.csel.org.uk).

Women's Asylum News would like to thank Clare Cochrane for writing the lead article in this month's newsletter.

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## Sector Update

### Government announces an end to child detention – where do we go from here?

The programme for government published on 20<sup>th</sup> May by the new Conservative-Liberal Democrat coalition promised categorically to “end the detention of children for immigration purposes”. A review has been commissioned to look at the best way to implement this policy. The decision was welcomed

by asylum and refugee groups across the UK, many of whom have campaigned for years against the detention of children.

On the day that the programme was published, however, a young Pakistani asylum seeker named Sehar Shebaz was detained while reporting to the UK Border Agency in Glasgow, along with her one-year-old daughter Wania. Sehar and Wania were moved to Yarl's Wood Immigration Removals Centre in Bedfordshire, and both mother and daughter were flown back to Pakistan on 22<sup>nd</sup> May. For all the enthusiasm with which the new Government's promise was greeted, Wania Shebaz's story illustrates the numerous obstacles that are still to be overcome before this new policy can be implemented, and implemented fairly.

Firstly, there are consequences to the decision to halt immediately child detention at some immigration centres, but to continue detaining children at others. For example, the UKBA stopped detaining children at Scotland's Dungavel Immigration Removal Centre on May 19th. As a result, Sehar and her daughter were transported across the UK to Yarl's Wood, in order to be held at a centre where child detention continues. This means that an extremely long, traumatic journey with UKBA escorts – leaving behind solicitors, friends and support networks – is likely to become an additional part of some children's experience ahead of being taken into detention.

Secondly, a complete end to child detention is unlikely to be achieved quickly. The Government's review is scheduled to take six weeks, and there is no time-scale for implementing any recommended changes. In the meantime, there is no indication that children currently held in detention are to be released, nor that the UKBA will suspend any ongoing plans to detain families with children.

Thirdly, the promise to end child detention has led to further questions, which the Government has not yet addressed. While children will no longer be detained, the Government has made no promises regarding the treatment of their families. Although the Government has indicated that it 'aims' to make sure that families stay together, uncertainty remains about whether asylum-seeking children might be separated from their parents and placed in social care while their families are taken into detention ahead of removal. Given that the Government has promised change in response to widely-held fears about the emotional damage caused to children while in detention, it is still unclear how these children will be protected from the trauma of possibly long-term separation from their parents, siblings and carers. The most appropriate decision may be to ensure that detention is not considered for any families with children, but the Government has not yet acknowledged that this additional step will need to be considered.

For more on Sehar and Wania Shebaz and the decision to stop detaining children at Dungavel IRC, see <http://www.timesonline.co.uk/tol/news/uk/scotland/article7130877.ece> and <http://news.scotsman.com/politics/Now-asylum-children-face-39even.6306713.jp>. Fears about the effect of detention on children's emotional health have been raised by a range of experts, including the Children's Commissioner [http://www.childrenscommissioner.gov.uk/content/publications/content\\_393](http://www.childrenscommissioner.gov.uk/content/publications/content_393) and the Royal College of General Practitioners <http://www.rcpsych.ac.uk/pdf/Significant%20Harm%20intercollegiate%20statement%20Dec09.pdf>. The coalition's programme for government is published at <http://programmeforgovernment.hmg.gov.uk>, and Baroness Neville-Jones's statement in the Lords about the detaining of families is at <http://www.theyworkforyou.com/lords/?id=2010-06-02a.252.0&s=neville#g252.2>

## Relevant Legal Issues

### Trafficking in Thailand: Particular Social Group and Internal Relocation

*AZ (Trafficked women) Thailand CG [2010] UKUT 118 (IAC)* – 23 April 2010, The Upper Tribunal, Immigration and Asylum Chamber

The appellant was a 26 year old woman from Thailand who was a victim of trafficking and had been brought to the UK for forced prostitution. She claimed asylum fearing being hunted down by her trafficker's gang if she was compelled to return to Thailand.

The Secretary of State (SSHD) accepted that the appellant had been a victim of trafficking and had been brought to the UK for forced prostitution. The SSHD refused to accept however that "women who had been sexually trafficked in the past in Thailand" formed a particular social group (PSG) because there was no social recognition of this group as distinct to the rest of society in Thailand. The SSHD also considered that she would be able to avoid being re-trafficked by ensuring that she would not return to a situation that would result in her being economically driven back to prostitution. Furthermore, the SSHD argued that the Thai state would provide her with sufficient protection and that internal relocation was possible for her.

The Upper Tribunal found the appellant to be a credible witness. The Tribunal however did not accept that all trafficked women are at risk of being re-trafficked in Thailand. The Tribunal gave a non-exhaustive list of factors including age, marital status, domestic background, familial support network, educational level, qualifications, past work experience and availability of employment which should be considered in order to ascertain whether there is a future risk of persecution. The Tribunal also said the appellant's state of mind was relevant in assessing whether she would be able to re-integrate into society. The Tribunal found that the risk of re-trafficking increased because of needing to rely on a shelter as this would identify her as a former victim of trafficking without support networks. The absence of employment prospects may force her to the tourist industry where she may be at risk of re-trafficking.

The Tribunal did not accept the SSHD's argument that the appellant's attempt to return to Thailand before being arrested showed a lack of fear of persecution. The Tribunal referred to the UNHCR Guidelines "which advise that women may feel ashamed of what has happened to them or may suffer from trauma caused by sexual abuse and violence". The Tribunal also referred to the SSHD's Asylum Policy Instruction on Gender Issues in the Asylum Claim noting in particular that an applicant's failure to disclose information relating to her claim should not automatically count against her as there may be reasons for this including feelings of guilt and shame.

In its analysis of particular social group, the Tribunal referred to the cases of *HC and RC (Trafficked women) China CG [2009] UKAIT 00027*, *Hoxha [2005] UKHL 19* and *SB (PSG - Protection Regulations – Reg 6) Moldova CG [2008] UKAIT 00002* finding that a victim of trafficking could be a member of a PSG.

The Tribunal had no hesitation in finding that the treatment the appellant was subjected to amounted to persecution and, considering this, her evidence and the expert evidence presented, that she would face further persecution in Thailand. The Tribunal however, refused to consider that the two limbs of the PSG test were alternatives and stated that the two limbs should be read together, namely that to be defined as a member of a PSG an applicant had to share an immutable characteristic with the other members of the group *and* be perceived by the larger society as a member of a distinct group. The Tribunal defined this particular social group as "young females who have been victims of

trafficking for sexual exploitation” and adopted the words of Baroness Hale in *Hoxha*<sup>1</sup> that “women who have been victims of sexual violence in the past are linked by an immutable characteristic which is at once independent of and the cause of their current ill-treatment”. Therefore, the Tribunal concluded that it is the shared past experience of being trafficked for sexual exploitation which amounts to a common, immutable characteristic. The determination does not make reference to the need of being perceived by society as a distinct entity. The judgment simply refers to the cases of *SB (PSG – Protection Regulations – Reg 6) Moldova CG [2008] UKAIT 0002* and *PO (Trafficked women) Nigeria CG [2009] UKAIT 00046*.

The Tribunal found that the Thai state was unable to offer effective protection and that internal relocation was not a viable option. In addition, it was unreasonable to expect the appellant to relocate due to her particular vulnerability, the fact that she was unlikely to find employment and that she would be at risk of re-trafficking throughout Thailand. The Tribunal said that “single, young women can be at risk in any part of the country if they live without family support and are not strong enough to withstand the risk of being duped into the sex trade”.

Finally, the Tribunal noted that the SSHD had given no consideration to the issue of a renewable residence permit as provided for under the European Convention on Action against Trafficking as she had been referred to the UK Human Trafficking Centre through the National Referral Mechanism.

The appeal was allowed on asylum and human rights grounds.

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## Somalia: Armed Conflict and Safety of Route on Return

*HH (Somalia) 2. AM (Somalia) 3. J (Somalia) 4. MA (Somalia) v. SSHD* – The Court of Appeal of England and Wales

This case, before the Court of Appeal, concerned the appeals of four applicants from Somalia who had been refused asylum and humanitarian protection by the Secretary of State (SSHD).

### *HH's appeal*

The first appellant HH, is a woman from Mogadishu. She was one of the appellants in the Country Guideline decision in *HH & others (Mogadishu: armed conflict: risk) Somalia CG [2008] UKAIT 00022*, promulgated in January 2008 which considered the risks to women who it was proposed to return to Mogadishu in Somalia. In its decision, the Asylum and Immigration Tribunal concluded that there was nothing to suggest that women were specifically targeted although they were at an increased risk at checkpoints and maybe at a differentiated risk if they were expected to travel across checkpoints without protection. The Tribunal in *HH* also found that Article 15(c) of the European Council Qualification Directive (QD)<sup>2</sup> did not provide protection to applicants unless they could show that the threats were particular to them over and above the threats that the rest of the population was exposed to. Since the case of *HH* was heard there have been significant decisions by both the Tribunal and the Court of Appeal which hold that conclusion of the Tribunal on this legal issue was incorrect. The Country Guideline case of *AM & AM (armed conflict: risk categories) Somalia CG [2008] UKAIT 00091* concluded that Mogadishu is subject to such a high degree of indiscriminate violence that the great majority of returnees to Mogadishu will be at risk of this pattern of indiscriminate violence, warranting

<sup>1</sup> *re B (FC)(Appellant) (2002) Regina v. Special Adjudicator (Respondent) ex parte Hoxha (FC) (Appellant) [2005] UKHL 19.*

<sup>2</sup> Council Directive 2004/83/EC of 29 April 2004 on minimum standards for the qualification and status of third country nationals or stateless persons as refugees or as persons who otherwise need international protection and the content of the protection granted.

the grant of humanitarian protection under Article 15(c) QD. The case of *Elgafaji v Staatssecretaris van Justitie* before the European Court of Justice, determined in February 2009, confirmed that the correct approach in the assessment of an individual threat of indiscriminate violence under Article 15(c) QD did not require a “differentiation” between the applicant and the rest of the population.

The appeal of *HH* was dismissed by the Court of Appeal because the Court found the Tribunal had not made a material error of law when it took its decision in January 2008. The Court held that even though the wrong legal test had been applied by the Tribunal in the case, on the findings of fact that were made, without error of law, it was inevitable that the Tribunal would have dismissed the appeal. The Court of Appeal did say, however, that HH should make a fresh application on the basis of the deterioration in conditions as recognised by the Tribunal’s decision in *AM and AM*.

#### *AM’s appeal*

The appeal by AM concerned the jurisdiction by the Tribunal to consider the applicant’s safety en route to his home area or to the suggested area of relocation. The Court of Appeal concluded that “for so long as the situation continues to be that found in *AM and AM*, only those Somalis who can get without undue risk to a place of safety or who have access to protection against the endemic dangers can properly be deported or returned”. Therefore the Court of Appeal found that in cases where it can be shown either directly or by implication what route of return is suggested the Tribunal is required by law to consider and make a determination on the safety of that route or the method of travel. It remitted the case for the Tribunal to “consider the question of the availability and efficacy of an armed escort as part of the question of safety of return”.

#### *J’s appeal*

J’s appeal was also concerned with her safety en route from Mogadishu to her home town. Her claim to be a member of a minority clan had been disbelieved and she made further submissions on the basis of the risk to her in traveling from Mogadishu International Airport to her home area. The issue before the Court of Appeal was whether the Administrative Court had been correct to hold that the applicant’s case was bound to be dismissed if considered on appeal by the Tribunal. The Administrative Court had held that such a route of travel would place the applicant at real risk of serious harm. However, it held that the route of return was not implicit within the decision and the point of return was not limited to Mogadishu International Airport in the future and consequently the appeal fell to be dismissed. The Court allowed the appeal on the basis that these risks had to be considered once it was accepted that return was to Mogadishu Airport and the dangers of return there were in focus. However it continued to consider novel arguments raised on her behalf. Its decision on these issues is not binding but is nonetheless important.

The appellant argued that she had a right in European Union law to, within reasonable time, consideration of her entitlement to international protection. She argued that if the route of return was unsafe for her, then she was entitled to international protection and the social entitlements that came with it. She could not be deprived of her right to the consideration of her entitlements because the SSHD has not engaged with risks arising from the route of return. The SSHD argued that Article 8 QD which states that internal relocation is applicable where “the applicant can reasonably be expected to stay in that part of the country” “notwithstanding technical obstacles to return to the country of origin” meant that the safety of the route of return issue should be ignored.

The Court concluded that “technical obstacles” were limited to administrative difficulties such as documentation or physical difficulties such as the lack of return flights. It did not however imply a requirement on the SSHD to ignore the possible risk of harm or death to the applicant once back in the country as this would defeat the purpose of the Directive to protect individuals from *refoulement*. The Court however, noted that the conclusions on “technical obstacles” and the QD were not central to this judgment and therefore not binding on the Court of Appeal and other lower courts. It

recognized that this issue will require further consideration by the UK and, potentially, European Court of Justice.

### *MA's appeal*

In the final appeal before the Court, the appellant was seeking to resist his return to Mogadishu on the basis that it would breach Article 3 ECHR. He had been in the UK for almost 15 years, spending much of that time in detention following his conviction for serious offences. MA's appeal was concerned with the evidence to be considered by the courts in cases where the appellant has been found to tell lies. The Court of Appeal concluded that the Tribunal was wrong to find that there was not sufficient general evidence combined with the limited facts established in his case that he could not establish a real risk that he would be unable to find protection by virtue of having close connections with powerful people in Mogadishu. His appeal was therefore allowed.

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## Refugee Family Reunion: Refugee Sponsors who have acquired British Citizenship

### *ZN (Afghanistan) (FC) and Others (Appellants)* – The Supreme Court

This appeal by the Supreme Court looked at which Immigration Rules apply to family members seeking to join a sponsor in the UK where the sponsor had been granted refugee status and subsequently acquired British nationality before the application for entry clearance had been made. Whether the application was to be considered under the rules relating to entry clearance as family members of UK citizens or as family members of refugees affects whether the applicants had to meet certain accommodation and maintenance criteria. Spouses and children of refugees in the UK wishing to gain entry clearance in the UK do not need to show that they can be adequately supported and maintained in the UK without recourse to public funds. If their applications are granted, spouses and children of sponsors with refugee status may enter and remain in the UK without any restrictions on employment or recourse to public funds. In contrast, the relevant paragraphs of the immigration rules, relating to the spouses and children of British nationals, require adequate maintenance and accommodation requirements to be shown if entry clearance is to be granted.

The Court of Appeal had previously ruled in this case that once the sponsor had acquired British nationality, his family would have to meet the maintenance and accommodation requirements before being granted entry clearance as the sponsor's refugee status had ceased as a result of obtaining British citizenship.<sup>3</sup> The Court of Appeal had narrowly interpreted the Immigration Rules relating to refugee family reunion to require the sponsor to currently hold refugee status is the *current* status of the sponsor (in particular paragraph 352A relating to spouses of refugees). This judgment was reported in Women's Asylum News of March 2009, issue 81.<sup>4</sup>

The appellants argued that the wording of paragraph 352D of the Immigration Rules "makes it clear that part of the purpose of the rules was to protect the refugee's family unit as recommended in the Final Act of the Conference that adopted the Refugee Convention". The Supreme Court noted the absence in the Immigration Rules of a specific reference to a requirement that the sponsor remains a refugee at the time the application is made. The Supreme Court therefore reached a different conclusion on the correct interpretation of the relevant Immigration Rules to the Court of Appeal.

<sup>3</sup> *DL (DRC) & the Entry Clearance Officer, Pretoria v The Entry Clearance Officer, Karachi* [2008] EWCA Civ 1420 (18 December 2008).

<sup>4</sup> See [http://www.asylumaid.org.uk/data/files/publications/94/Issue\\_81\\_for\\_pdf\\_FINAL.pdf](http://www.asylumaid.org.uk/data/files/publications/94/Issue_81_for_pdf_FINAL.pdf).



The Supreme Court found that the language of the Immigration Rules did not contain any express or implicit language to suggest that the “person granted asylum” or the “person who has been granted asylum” should not have acquired British citizenship before the application for entry clearance was made. The relevant fact is that the sponsor has been granted refugee status by the UK authorities. The Supreme Court therefore unanimously allowed the appeal of the five appellants. However, it left open the possibility that the government might be able to amend the relevant provisions of the Immigration Rules to effectively reverse this position in the future. We have yet to see whether the government will seek to make such a change.

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## National News

### Winner of the primary Young Human Rights Reporter of the Year writes about Yarl’s Wood

The Guardian news website for schools, Learnnewsdesk and Amnesty International ran the competition and asked children aged 7 to 14 to write a human rights story in under 250 words. They received more than 450 entries from schools all over the UK. Issues covered ranged from child labour and poverty to bullying and the right to speak your own language to the treatment of Roma people in Italy. The primary winner is an 11 year old girl from a school in London who wrote about the story of Bethlehem Abate, a child who was kept in Yarl's Wood detention centre. Her story starts with the following words: "this is not Nazi Germany; this is September 2009. Bethlehem Abate is 11 years old and has escaped with her mother from Ethiopia". One of the Judges said that the winner had “highlighted the need to remember that human rights are abused not just overseas, but right here in Britain”.

To read article see: <http://www.guardian.co.uk/education/2010/jun/01/human-rights-amnesty-competition-winners>

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## European News

### Council of Europe draws up convention to combat violence against women

The conference of the Council of Europe on “Gender equality: bridging the gap between de jure and de facto equality” is drawing up a new convention to combat violence against women. The draft convention will be finalized by the end of the year and will recommend concrete measures to prevent violence against women and improve relevant legislation. The Committee of Ministers adopted a [resolution](#) on “*Bridging the gap between de jure and de facto equality to achieve real gender equality*” and an [Action Plan](#) that maps out the future work of the Council of Europe in this field. The Committee of Ministers noted that the equal treatment approach had failed to deliver and there was a need for a gender mainstreaming approach, placing gender equality at the heart of all policies. The resolution calls on member states to “prevent and combat gender based violence against women, and fight multiple discrimination against vulnerable groups, such as migrants, women and girls discriminated on grounds of their sexual orientation or gender identity, transgender persons, and women and girls with disabilities”.

Although many members states of the Council of Europe have legislation to combat gender inequality and violence there is often a gap in implementation, women suffer more from poverty and

unemployment and the image of women is characterised by stereotypes created by the mass media said Maud de Boer-Buquicchio, the Council of Europe Deputy Secretary General. She also said that the rights of refugee and women who were internally displaced needed more protection than others.

To read full articles see:

[https://wcd.coe.int/ViewDoc.jsp?Ref=PR418\(2010\)&Language=lanEnglish&Ver=original&BackColorIntranet=F5CA75&BackColorIntranet=F5CA75&BackColorLogged=A9BACE](https://wcd.coe.int/ViewDoc.jsp?Ref=PR418(2010)&Language=lanEnglish&Ver=original&BackColorIntranet=F5CA75&BackColorIntranet=F5CA75&BackColorLogged=A9BACE) and <http://en.apa.az/news.php?id=122915>

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## International News

### **Australia: Blanket suspension on processing of Afghan and Sri Lankan asylum claims**

Australia has suspended the processing of asylum claims from Afghanistan and Sri Lanka. Human Rights Watch said this violated Australia's obligations under international law and represented a serious threat to those in need of protection from these countries. Human Rights Watch stated that this is discriminatory under the UN Refugee Convention as countries should continue to consider individual applications even if general conditions have improved in certain countries. The organisation said that for example "women and girls, ethnic and religious minorities, media workers, civil society activists, opposition party members and supporters, and alleged militants may be at risk of persecution in Afghanistan and Sri Lanka". Asylum seekers who arrive to Australia by boat are subject to mandatory detention in the Christmas Island's detention centres. The new government policy means that asylum seekers from Afghanistan and Sri Lanka will therefore be detained for longer before their claims for asylum are examined.

To read article: <http://www.hrw.org/en/news/2010/04/14/australia-promptly-process-all-refugee-claims?tr=y&auid=6249614>

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### **Kenya: Gang rapes on the rise**

The Nairobi Gender Violence Recovery Centre, at the Nairobi Women's Hospital, has recorded an increase in the number of gang rapes, in particular in the capital, Nairobi. The data was provided from cases of gender-based violence (GBV) recorded between April 2009 and March 2010. The Centre registered 2,487 GBV survivors between April 2009 and March 2010, 52 percent (1,285) of whom were women, 45 percent (1,125) children and 3 percent men (77). The victims primarily cited their neighbours, husbands and friends as the main perpetrators of sexual violence.

To read article see: <http://www.irinnews.org/report.aspx?ReportID=89315>.

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### **Kenya: Somali refugees living in dire conditions**

Asha Abdul<sup>5</sup>, a single mother of five and a Somali refugee in Kenya, does not like to attract attention to her family because she fears police harassment, lack of protection, human rights violation and discrimination.

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<sup>5</sup> Not her real name.

Somali refugees in Kenya are left without material assistance or legal protection leaving them vulnerable to police arrests and xenophobia from the local population. Confusion over the asylum process and fears of deportation lead Somali refugees not to report their presence to the Kenyan authorities. Living conditions have resulted in extended health related problems for the refugees and they cannot afford to seek specialised medical assistance. The poor state of the roads means it is difficult for anyone to develop any successful business venture. The Kenyan government passed a Refugee Act in 2006 which sets out the legal and institutional rules relating to refugees. However, the Overseas Development Institute stated that "while the act was largely welcomed by civil society and represents a step in the right direction, it has been undermined by a lack of institutional capacity and the absence of a clear national policy outlining the necessary steps for its implementation".

To read full article: <http://www.irinnews.org/Report.aspx?ReportId=88770>

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## **Liberia: UN and NGOs scale down may affect sexual violence projects**

As the UN and NGOs scale down aid operations, humanitarian workers worry that projects on sexual violence may not be picked up by the government which lacks capacity and resources. The action plan to reduce sexual violence started last year as part of the wider aim to implement UN Security Council Resolution 1325 on women, peace and security relies heavily on aid agencies and international donors. Sexual violence rates first in the monthly crime statistics in Monrovia and legal redress is rarely an option as claimants have little means and the judicial system is weak. There is also a serious problem of under-reporting.

To read full article: <Http://www.irinnews.org/report.aspx?ReportID=89127>.

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## **New Publications**

### ***"Now, The World Is Without Me", An investigation of sexual violence in Eastern Democratic Republic of Congo***

**Harvard Humanitarian Initiative and Oxfam, 15 April 2010**

The Harvard Humanitarian Initiative (HHI) and Oxfam have published a new detailed study on the impact and development of the sexual violence crisis in Eastern DRC. The research identifies that women of all ages, ethnic backgrounds and marital statuses are affected by the prevalence of rape. The report shows that although the overall number of reported rapes has decreased in Panzi Hospital, South Kivu, there has been an increase of rapes by the civilian population. Oxfam said that this demonstrates the normalisation of rape within society and the destruction of constructive social mechanisms to protect civilians from sexual violence. The research also shows that women are also at risk within their own homes and that the brutality of sexual violence has become one of the defining characteristics of the war in South Kivu. The HHI and Oxfam stress the need for impunity to end and the need to address the normalisation of rape within society. Urgent resources are also needed to provide medical care, psychological counselling and social support to victims of sexual violence.

To read article: [http://www.oxfam.org.uk/resources/policy/conflict\\_disasters/sexual-violence-drc.html](http://www.oxfam.org.uk/resources/policy/conflict_disasters/sexual-violence-drc.html).

To read full report:

[http://www.oxfam.org.uk/resources/policy/conflict\\_disasters/downloads/rr\\_sexual\\_violence\\_drc\\_1504\\_10.pdf](http://www.oxfam.org.uk/resources/policy/conflict_disasters/downloads/rr_sexual_violence_drc_1504_10.pdf).

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## ***Exchange for Change: Guide pour l'amélioration de la prise en compte des persécutions liées au genre dans la demande d'asile en Europe***

**France Terre d'Asile, Spanish Commission for Refugees, Italian Council for Refugees (CIR), May 2010**

France Terre d'Asile (FTA), the Spanish Commission for Refugees (CEAR) and the Italian Council for Refugees (CIR) have published a joint report entitled "Exchange for Change": a guide for the improvement of the recognition of gender-based persecution in the asylum determination process in Europe. The report is currently available in French on the France Terre d'Asile website and will soon be available in English. The guide covers international protection and gender-based violence, the consideration of gender within the asylum determination system and the procedures and support for women fleeing gender-based persecution. The guide urges states to take gender into consideration when interpreting the 1951 Refugee Convention and the EU Qualification Directive. Furthermore, asylum procedures must take into account the specificities of gender-related persecution in the decision-making process, such as the difficulty of accepting and disclosing past suffering, or the shame and trauma linked to such persecution.

For full report (in French) see: <http://www.france-terre-asile.org/images/stories/pdf/exchange-for-change-le-guide-04-05-2010.pdf>

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## ***Harsh War, Harsh Peace: Abuses by al-Shabaab, the Transitional Federal Government, and AMISOM in Somalia***

**Human Rights Watch, 19 April 2010**  
**ISBN: 1-56432-621-7**

Human Rights Watch has published a report on the conflict in Somalia. The report concluded that Al-Shabaab forces have brought greater stability in southern Somalia but at a heavy price for the civilian population, in particular women. Interviews undertaken by Human Rights Watch showed how Al-Shabaab are imposing punishments such as amputations, flogging, beatings and executions for failure by women to wear the appropriate Islamic clothing, when accused of supporting the government or simply for being from a part of Mogadishu controlled by the government. The report says that the population in the South "is subject to targeted killings and assaults, repressive forms of social control, and brutal punishments under its draconian interpretation of Sharia (Islamic law)". Women have been stoned on accusations of adultery and thieves whose hands have been amputated. Many of the freedoms Somali women used to enjoy have been prohibited and women may no longer openly mix with men and are obliged to wear a certain type of *abaya* which covers the face, hands and feet. Civilians are killed by Al-Shabaab and other opposition groups on accusations of supporting their opponents.

Al-Shabaab is a radical group with roots in the Islamic Courts Union, the militia-backed coalition that controlled parts of Mogadishu in 2006 before being pushed back by Ethiopia's military intervention in Somalia. Al-Shabaab is now the most powerful armed group in Somalia controlling a larger territory than any other group.

Human Rights Watch found that all sides to the conflict were engaged in indiscriminate violence against the civilian population and were violating the laws of war.

To read the article: <http://www.hrw.org/node/89690?tr=y&auid=6249842>

To read the full report: <http://www.hrw.org/node/89646>

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## ***UNHCR Eligibility Guidelines for Assessing the International Protection Needs of Asylum-Seekers from Somalia***

**UNHCR, 5 May 2010**

**HCR/EG/SOM/10/1**

The UNHCR has published its latest guidelines on the assessment of internal protection needs of Somalis. They provide a list of all those in need of international protection from central and southern Somalia which includes nearly all but the most powerful actors in society.

RSD Watch notes that “among other issues, UNHCR concluded that Somalis could face a genuine fear of persecution if Islamist militias believe they have violated extreme interpretations of Islamic law. In Somalia, the al-Shabaab militia has at various points banned music, playing soccer and other games, school bells, cinemas, and dancing, as well as mandating the veiling of women and observance of prayer times. According to UNHCR, some “married women whose husbands or fathers were unable to pay for the hijab were forcibly divorced and re-married to members of al-Shabaab.” UNHCR noted that private violence against women is widespread in Somalia, including “early and forced marriage, domestic violence and female genital mutilation”.

For accessing the Guidelines see: <http://www.unhcr.org/refworld/docid/4be3b9142.html>

To read article see: <http://rsdwatch.wordpress.com/2010/05/22/unhcr-calls-for-broad-protection-of-somalis-highlights-religious-and-gender-violence/>

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## ***Criminal Force: Torture, Abuse and Extrajudicial Killings by the Nigeria Police Force***

**Open Society Justice Initiative and Network on Police Reform in Nigeria, May 2010**

The Open Society Justice Initiative has recently released a report documenting that the Nigerian police kill, rape, torture and extort with relative impunity. Nigerian police routinely carry out summary executions of suspected criminals, use torture to extract confessions from detainees, and rape as an interrogation technique. The report found that the Nigeria Police Force personnel routinely carry out summary executions of persons accused or suspected of crime; rely on torture as a principal means of investigation; commit rape of both sexes, with a particular focus on sex workers; and engage in extortion at nearly every opportunity. Despite several assurances from the government that resources and efforts were being targeted to address this problem, abuses have continued with little changes.

To read article: <http://www.irinnews.org/report.aspx?ReportID=89220>.

To access full report:

[http://www.soros.org/initiatives/justice/focus/criminal\\_justice/articles\\_publications/publications/nigeria-police-abuse-report-20100519/criminal-force-20100519.pdf](http://www.soros.org/initiatives/justice/focus/criminal_justice/articles_publications/publications/nigeria-police-abuse-report-20100519/criminal-force-20100519.pdf)

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## ***Failing the Grade: Home Office initial decisions on lesbian and gay claims for asylum***

**UK Lesbian and Gay Immigration Group, April 2010**

The report by UKLGIG argues that UKBA case owners lack training and appropriate guidance on dealing with asylum claims by lesbian and gay applicants. The report questions the assumptions made by the Home Office on lesbians and gays' ability to be discreet about their sexuality and their capacity to relocate within their home countries where homophobia is prevalent. The report demonstrates that UKBA case owners often rely on out of date country information and ignore the UNHCR Guidance Note on Refugee Claims Relating to Sexual Orientation and Gender Identity.

Findings on the reasons why lesbian and gay applicants were refused asylum included: an assumption that lesbians and gays can be discreet and therefore avoid persecution, finding that internal relocation is viable in countries where homophobia is prevalent, failure to understand the way multiple discrimination and persecution affect lesbians, equating lack of available country information on persecution of lesbians with an absence of risk of persecution, equating lack of available country information on the application of laws criminalising same sex relationships with an absence of persecution, disbelieving applicants are lesbians or gays due to misconceptions about sexual identity, a speculative belief that applicants are lying because they engaged in risky sexual or non-conforming social behaviour that leads to persecution and a reliance on Operational Guidance Notes even when these contradict the most recent UKBA Country of Origin Reports.

To read full report:

<http://www.uklgig.org.uk/docs/Failing%20the%20Grade%20UKLGIG%20April%202010.pdf>

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## ***No Going Back: Lesbian and Gay People in the Asylum System***

**Stonewall**

The Stonewall report demonstrates the systemic discrimination against lesbian and gay asylum seekers by the UKBA. The report is based on interviews with asylum seekers and UKBA case owners who acknowledge that they receive no guidance on interviewing applicants and often use out of date country information. Stonewall recommends a more robust policy on lesbian and gay asylum seekers, better guidance and training of UKBA decision-makers to ensure interviewing is undertaken appropriately and that the system becomes fairer and Home Office Country of Origin services are improved to include up to date information on countries where lesbians and gays are discriminated against.

The report looks at the experiences of lesbian and gay asylum seekers in their home country, the process of claiming asylum, detention, the asylum interview, the decision-making process and targets, the appeals process and returns. The report makes recommendations on the UKBA policy and training and the use of country information. The report also makes recommendations for Immigration Judges.

To read article see: [http://www.stonewall.org.uk/media/current\\_releases/3927.asp](http://www.stonewall.org.uk/media/current_releases/3927.asp).

To access full report: [http://www.stonewall.org.uk/what\\_we\\_do/research\\_and\\_policy/2874.asp](http://www.stonewall.org.uk/what_we_do/research_and_policy/2874.asp).

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## ***Cameroon: Prevalence of arranged marriages***

The Refugee Documentation Centre in Ireland has produced research on the prevalence of arranged marriages in Cameroon on 16 April 2010.

To access research see: <http://www.unhcr.org/refworld/docid/4bcd67062.html>.

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## ***Pakistan: Availability of state protection from domestic violence***

The Refugee Documentation Centre in Ireland has produced research on the availability of state protection for women and children from domestic violence in Pakistan on 7 April 2010.

To access research see:

<http://www.unhcr.org/refworld/topic,4565c22544,4565c25f551,4bc6e34b2,0.html>

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## ***UNHCR Statement on the right to an effective remedy in relation to accelerated asylum procedures, 21 May 2010***

The statement was issued in the context of the preliminary ruling reference to the Court of Justice of the European Union (CJEU) from the Luxembourg Administrative Tribunal regarding the interpretation of Article 39 of the Asylum Procedures Directive (APD) on the right to an effective remedy; Article 6 ECHR on the right to a fair trial and 13 ECHR on the right to an effective remedy. This is the first time a national court has made a request for an interpretation of the APD. The national court asked the CJEU whether national authorities may deny a right of appeal on a decision to consider a claim for asylum or humanitarian protection within the accelerated procedure. UNHCR explains that “the aim of this statement is to reaffirm that an accelerated asylum procedure, including one under the Asylum Procedures Directive, should always respect minimum procedural safeguards, both in law and in practice”.

The UNHCR concludes that “no remedy against the decision to channel asylum claims into accelerated procedures, but only against the final decision -- may be consistent with Article 39 APD and Articles 6 and 13 ECHR, this is the case only so as long as accelerated procedures afford the applicant access to all procedural safeguards essential for the enjoyment of the right to an effective remedy. These include, for instance, provision of information to applicants on how to appeal, and to which appeal body, reasonable time-limits within which to appeal, legal and linguistic assistance with the submission of the appeal, and access to the case file in a timely way”. The UNHCR also notes that the possibility of requesting suspensive effect during appeal is an essential element of the right to an effective remedy.

To access full statement: <http://www.unhcr.org/refworld/docid/4bf67fa12.html>.

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## UK Training and Events

### Country of Origin Information Training Events on Afghanistan, 17 and 22 June 2010

The Research, Information and Policy Unit (RIPU) at the Immigration Advisory Service is presenting two half-day Country Information training events on Afghanistan. The first will be held in London on June 17th and the second in Manchester on June 22nd. RIPU is also open to the possibility of providing in-house training for organisations who feel they may have sufficient numbers to merit a session at their own premises.

The training will be presented by Dr Matt Merefield, a Country Information researcher at the Research, Information, and Policy Unit, and Honorary Fellow at City University's Centre on Race, Ethnicity, and Migration.

Further information and booking forms can be found on the IAS website at:  
[http://www.iasuk.org/training/Country\\_course\\_information.aspx](http://www.iasuk.org/training/Country_course_information.aspx)

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### Rights of Women's 35<sup>th</sup> Anniversary Conference

#### *Measuring Up?*

*UK compliance with international commitments on violence against women in England and Wales*

Tuesday 22 June 2010  
Hamilton House, Mabledon Place, London WC1H 9BD  
9.30am – 5.00pm

#### **About the Conference:**

The UK has signed up to all major international human rights treaties relevant to violence against women. In 1995 the UK signed up to the Beijing Declaration and Platform for Action, a global policy document on women's rights which lists violence against women amongst twelve critical areas of concern for state action to accelerate progress toward gender equality and women's empowerment. This conference will take stock of progress and assess whether the UK has met its commitments under international law in England and Wales.

We now have a new Government and we must place women's rights at the top of the agenda. Although we have seen major improvements over the past decade, violence against women remains a key factor that restricts the ability of women to participate as equals in society.

Join us to strategise where we must go from here to ensure effective prevention and protection from all forms of violence against women for all women.

**Speakers** include Emma Scott, Director, Rights of Women; a Speaker from the Government (tbc); a Speaker from the UN Division for the Advancement of Women (tbc) and Baroness Joyce Gould, Chairperson, Women's National Commission.

The **panel discussions** will cover the following topics:

- 1 Money talks: patchy performances and strategies to overcome post-code lotteries
- 2 Rape and sexual violence: how does the UK measure up?



- 3 Joining up the dots: barriers to achieving justice for women through the family justice system
- 4 Mind the gap: what about women with an insecure immigration status?
- 5 Prevent and protect: how effective are civil law remedies in preventing and responding to violence?

*For more information and to book your place see attached booking form or visit [www.rightsofwomen.org.uk](http://www.rightsofwomen.org.uk)*

*Please send all queries and bookings to [events@row.org.uk](mailto:events@row.org.uk)*

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## **Refugee Week, 14-20 June 2010**

Find out what events are taking place during Refugee Week across the UK including the online Refugee Week Film Festival, The World Refugee Day Umbrella Parade in London, celebrating Sanctuary in London, the Red Cross Refugee Week Comedy Night in Glasgow, the Refugee Week Alternative World Cup in London and the Refugee Week Cabaret in Brighton.

For more information on events, dates and locations see: <http://www.refugeeweek.org.uk/>

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## **Refuge in Film Festival, 18-20 June 2010**

The Festival is being run by a group of young people (19-25 year old), including refugees and migrants from around the world (Sierra Leone, Colombia, Somalia, Ethiopia, Iraq, Afghanistan, Eritrea, Uganda, Yemen, Burundi, Sudan, Rwanda, Palestine, Kosovo, Algeria, Ivory Coast, Kenya, Senegal, Angola, Guinea, Mauritius, Bangladesh, Ireland, Hungary, France, Greece as well as the UK). The aim of the project is to raise awareness about refugee and migrant issues. The Festival will take place at the British Film Institute at the South Bank in London.

For more information see: <http://www.refugeinfilms.org/>

For the programme and trailers see:

[http://www.refugeinfilms.org/index.php?option=com\\_content&view=article&id=53&Itemid=63](http://www.refugeinfilms.org/index.php?option=com_content&view=article&id=53&Itemid=63)

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## *Charter of rights of women seeking asylum*



**Endorsements: 210**

**Google group membership: 119**

### **Women's Asylum Charter recognised by The Charity Awards 2010**

The *Charter of Rights of Women Seeking Asylum* is one of three projects shortlisted in the 'Research, Advice and Support' section for the Charity Awards in 2010. Award winners will be announced on 10th June. Debora Singer, Policy and Research Manager at Asylum Aid commented:

*"To be recognised in this way is obviously a huge boost to our morale and demonstrates to all 210 organisations who have endorsed the Charter that their work is being taken seriously. It is very rewarding to see the importance of achieving a truly gender-sensitive asylum system being acknowledged by the Charity Awards."*

This announcement follows a surge of successes for the campaign.

In March this year, the UK Border Agency appointed its first Gender Champion to take a strategic lead on gender issues in the asylum system. For example, childcare facilities have been introduced in Cardiff, Glasgow and Leeds.

We are now approaching the two year anniversary of the *Charter of Rights of Women Seeking Asylum*. Developing an asylum process that considers gender issues in a holistic way was never going to be a short or simple process. It is good to see our work being recognised, gaining momentum, and more importantly producing some tangible results.

For more information regarding the impact of the *Charter* so far, look out for our new report due to be released at the end of June.

To see the full shortlist for the Charity Awards 2010, please go to:

<http://www.charityawards.co.uk/home/list.php?pg=10&yr=14>

For recent news on the Charter, please visit [www.asylumaid.org.uk/charter](http://www.asylumaid.org.uk/charter)

If you have any queries, or if your organisation would like to endorse the Charter, please email [charter@asylumaid.org.uk](mailto:charter@asylumaid.org.uk)

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](http://www.asylumaid.org.uk/pages/give_now.html)  
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**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.

Please notify us if you are no longer eligible to Gift Aid your donations.

We will not sell or swap your personal details with any other organization. We would like to keep you informed about our work, campaigning and membership. If you do not wish to receive any information from Asylum Aid other than relating to your donation, please tick this box.

[www.asylumaid.org.uk](http://www.asylumaid.org.uk)

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Address: .....  
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each month/ quarter/ year (please circle) until further notice and debit my bank account:  
Account number: .....  
Sort code: .....  
Starting on (date): .....  
Signature: .....  
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80 Cornhill, London EC3V 3NJ.  
Sort code: 08-02-28,  
Account number: 65281262

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**Asylum Aid, Club Union House,**  
**253-254 Upper Street,**  
**London N1 1RU**



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