



**Briefing for Rashida Manjoo
UN Special Rapporteur on Violence Against Women
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Poor quality decision-making in women's asylum claims leaves them vulnerable to VAW in the UK.

A woman asylum seeker may flee her country of origin for political reasons or because of VAW. Once in the UK, she is more likely than a man to get the wrong initial asylum decision. If her asylum claim and appeals are refused, her accommodation and support will be withdrawn by the Home Office (unless she has children or exceptional circumstances). This is likely to leave her destitute. Once destitute she is at risk of and may experience VAW in the UK.

The UK's standards for dealing with VAWG in relation to women seeking asylum compare poorly with those for women experiencing VAWG in the UK or abroad, demonstrating a lack of due diligence and joined up government.

In the UK, the criminal justice system reforms for dealing with victims of rape and domestic violence, forced marriage and FGM have been developed for over a decade by the legislature, Police, Crown Prosecution Service and judiciary. Although the systems are by no means perfect, there is a greater recognition of VAW and more admissions when they go wrong. The most senior professionals regularly speak in public about the need to believe victims of rape. The most senior Ministers have strengthened legislation on FGM and forced marriage and committed funding to their elimination.

At an international level, the Department for International Development and the Foreign and Commonwealth Office are responsible for major initiatives to protect women abroad from sexual violence (eg the Foreign Secretary's initiative on Preventing Sexual Violence in Conflict which has been extended to the G8). There is an obvious irony in the government's increased focus on VAW within international development work when the UK does not provide protection to those same women if they claim asylum in the UK.

Women asylum seekers are a worrying example of intersectionality, discriminated against both for being women and for being asylum seekers. Because of this, VAW that is recognised as a problem in the context of

international development stops being a problem when the woman arrives in the UK. And VAW that is recognised as a problem for a British woman in the UK is not recognised as a problem if it happens to a woman abroad who then seeks protection here.¹

This lack of joined up policy is reflected in the Government's Strategy to End Violence Against Women and Girls where action points relating to women seeking asylum were only added following a major campaign, Missed Out, run by the *Charter of Rights of Women Seeking Asylum* during the winter of 2012. The *Charter* is supported by nearly 350 organisations including national and local refugee, women's, grassroots and human rights organisations as well as unions and faith groups. These organisations believe that women should be treated as women and protected from VAWG whatever their immigration status.

However, despite the Government's VAWG strategy's emphasis on protection, destitute women asylum seekers are not protected from VAW.

Evidence

One third of people applying for asylum in the UK each year are women: a proportion that has remained constant since 2003. In 2012, 6,071 women claimed asylum in their own right, out of a total of 21,785 asylum seekers. Roughly one third of women are granted asylum initially, one third on appeal and one third are refused at all stages. In 2012, one quarter of all women applying in their own right were from Pakistan and Iran, with other significant numbers coming from Nigeria, Eritrea, China, Sri Lanka and Somalia, countries where there are particular concerns about lack of state action to protect women from VAW.

According to the Home Affairs Select Committee "Women are less likely than men to receive a correct initial decision on their asylum claim."² In 2011 Asylum Aid's research demonstrated this for the first time and showed that cases were overturned on appeal because of poor credibility assessments.³

In undertaking credibility assessments, decision-makers appear not to be using the lower standard of proof which is reasonable likelihood of persecution on return.⁴ Using too high a standard of proof is particularly

1 Singer, D (2013) *Women seeking asylum – failed twice over* in Rehman, Y. et al (eds) *Moving in the Shadows: Violence in the lives of minority women and children*, pp 225 - 243

2 House of Commons Home Affairs Committee. October 2013. Asylum. Seventh report of session 2013. Para 46

3 Asylum Aid (2011) *Unsustainable: the quality of initial decision-making in women's asylum claims*, <http://www.asylumaid.org.uk/data/files/unsustainableweb.pdf>;

4 UNHCR (2013) *Beyond Proof, Credibility Assessment in EU Asylum Systems* <http://www.unhcr.org/51a8a08a9.html>; Amnesty International/Still Human Still Here (2013) A

relevant to women as many women are persecuted in the private sphere and so do not have documentary evidence of this harm and might be at risk if they asked for state protection. In addition, it may be difficult for them to provide coherent, consistent, chronological narratives due to the trauma they have experienced.⁵

Home Office statistics are now disaggregated by sex and continue to show disproportionate overturns for women compared to men⁶ despite the UK Visas and Immigration (UKVI) having updated guidance on gender⁷ and credibility⁸ and rolled out new training specifically on women's issues for decision-makers.⁹

Home Office statistics do not include whether gender-based persecution is the basis of a woman's claim. However research shows that between one half and three quarters of women asylum seekers have experienced VAW either in their country of origin, during transit to the UK, or once in the UK.¹⁰

A destitute woman asylum seeker will have to rely on the goodwill of friends or

question of credibility: why so many initial asylum decisions are overturned on appeal in the UK http://www.amnesty.org.uk/uploads/documents/doc_23149.pdf

5 Asylum Aid briefing. February 2014. The Government response to the 7th report from the Home Affairs Select Committee session 2013 – 14 hc 71: Asylum <http://www.asylumaid.org.uk/wp-content/uploads/2014/02/Briefing-by-Asylum-Aid-February-2014-RH-1002.pdf>

6 Asylum Aid's submission to Home Affairs Select Committee inquiry into asylum. March 2013, appendix 1 http://www.asylumaid.org.uk/wp-content/uploads/2013/08/HomeAffairsCommittee_AsylumAid.pdf

7 UK Border Agency. 2010. *Asylum Instruction on Gender Issues in the Asylum Claim*. www.gov.uk/government/uploads/system/uploads/attachment_data/file/257386/gender-issue-in-the-asylum.pdf

8 UK Border Agency (2012) *Asylum Instruction, Considering Asylum Claims and Assessing Credibility* https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/257426/considering-protection-.pdf

9 The Government response to the 7th report from the Home Affairs Select Committee session 2013 – 14 hc 71: Asylum. December 2013, Para 11 <http://www.official-documents.gov.uk/document/cm87/8769/8769.pdf>

10 Scottish Refugee Council and London School of Hygiene and Tropical Medicine. 2009. *Asylum Seeking Women, violence and health* <http://genderviolence.lshtm.ac.uk/files/2009/10/Asylum-seeking-Women-Violence-and-Health.pdf>; Refugee Council. 2009. *The vulnerable women's project: refugee and asylum seeking women affected by rape or sexual violence – literature review* http://www.refugeecouncil.org.uk/assets/0001/7039/RC_VWP-report-web.pdf ; Dorling, K. et al, 2012. *Refused: the experiences of women denied asylum in the UK*, Women for Refugee Women <http://www.refugeewomen.com/images/refused.pdf>

on food parcels from churches; she may become homeless and have to sleep on the street. Five years ago, research showed that more than a third of destitute asylum seeking women sleeping outside had experienced sexual assault including rape.¹¹ More recent evidence shows that destitute women continue to experience sexual violence and exploitation and engage in transactional activity including sexual activity to get a roof over their head.¹² In an in depth study of women seeking asylum, Women for Refugee Women found that of those refused asylum (67 women), 67% had been made destitute and of those who were made destitute 16% had experienced sexual violence whilst destitute.¹³

In addition, women may face destitution because of gender-related reasons. Pregnancy or the birth of a child, domestic violence or sexual exploitation are the main causes of women being forced out of their accommodation.¹⁴

Case study

*Saron's story (extract)*¹⁵

"I came because I had to. I would never have chosen to leave my family, everything I love about my country, the sunshine, the music, the food that tastes good in your mouth. When they refused me asylum the money stopped and I didn't have a place to live. The girl I met in the hostel let me sleep on her

floor for a while, but then she was sent out of London and I didn't know anyone else. Where did I sleep? Rough. I think I went mad. I got confused. I was crying all the time. I had no legal paper to work or stay in the country. I was destitute. I was completely without friends. If you sleep rough, as a woman, men abuse you. They offer you a safe place, a warm place, but then it is like what the policeman did to me in prison."

11 Diane Taylor. 2009. *Underground Lives: An Investigation into Survival Strategies of Destitute Asylum Seekers in the UK*. PAFRAS

12 Crawley, H. et al. 2011. *Coping with destitution, survival and livelihood strategies of refused asylum seekers living in the UK*, Oxfam
<http://policy-practice.oxfam.org.uk/publications/coping-with-destitution-survival-and-livelihood-strategies-of-refused-asylum-se-121667>

13 Dorling, K. et al, 2012. *Refused: the experiences of women denied asylum in the UK*, Women for Refugee Women

14 Asylum Support Appeals Project. 2011. *No credibility: UKBA decision making and section 4 support*. <http://www.asaproject.org/wp-content/uploads/2013/03/no-credibility.pdf>

15 Dorling, K. et al, 2012. *Refused: the experiences of women denied asylum in the UK*, Women for Refugee Women, page 30

Key Recommendations

1. Implementation and performance management

The poor quality of credibility assessments persists because policies and training are ignored or overlooked and UKVI management systems fail to prevent this. The UKVI needs to provide a consistent package including line management, performance management, supervision and appraisals systems to probe the results of quality audits, grant/refusal rates and overturn on appeals and ensure that decision-makers use the correct standard of proof in women's cases.

2. Change of culture

The Home Affairs Select Committee report into asylum states "the culture of disbelief ... has no place in fair judgements."¹⁶ To change the culture of disbelief, and to ensure that guidance and training are implemented, change of practice needs to be supported from the top with far greater leadership and vision. Sarah Rapson, Interim Director of UKVI, has taken on the role of Gender Champion so she is in a good position to promote a gender-sensitive asylum system and mainstream gender throughout UKVI.

3. Transfer of learning

*At a time when the criminal justice system is finally waking up to the needs of victims of domestic and sexual violence, the asylum system should be doing the same.*¹⁷

The UKVI should liaise with the police and the Crown Prosecution Service (CPS) to see what lessons could be transferred in relation to credibility assessments for women seeking asylum. This is an opportune time as the police and CPS are currently overhauling their own guidance on credibility in sexual offences cases. For example, recent CPS guidance states:

*Police and prosecutors should therefore look to build a case which looks more widely at the **credibility of the overall allegation** rather than focusing primarily on the **credibility and/or reliability of the child or young person***¹⁸

4. Inclusion in VAWG strategy

¹⁶ House of Commons Home Affairs Committee. October 2013. Asylum. Seventh report of session 2013, Para 11

¹⁷ House of Commons Home Affairs Committee. October 2013. Asylum. Seventh report of session 2013, Para 51

¹⁸ CPS October 2013 *CPS Guidelines on Prosecuting Cases of Child Sexual Abuse* Para 50, emphasis added. http://www.cps.gov.uk/legal/a_to_c/child_sexual_abuse/#a13

If the Government were to establish the rights of women seeking asylum firmly within the VAWG strategy, this would increase the potential for due diligence and joined up policy. In practical terms this could include the Home Secretary ensuring that there is regular representation from the Immigration Minister and the UKVI at the appropriate level at all VAWG meetings from the Inter-Ministerial Group down. As a matter of principle, there needs to be an understanding of intersectionality and an agreement that there should not be a lesser standard of protection from VAW for women who have come to the UK seeking protection from human rights abuses than the standard for women settled in the UK or for women in foreign countries.

This is a contribution to the ERAW Briefing for the UN Special Rapporteur –
VAWG Strengths, Challenges, And Gaps.