

Women's ASYLUM NEWS

Refugee Women's Resource Project - Asylum Aid - Issue 27 Nov/Dec 02

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What protection for refugee women at risk of domestic violence in the UK?

November 25 marks the International Day Against Violence Against Women and is the first day of 16 days of the Activism Against Gender Violence Campaign which is an international strategy calling for the elimination of all forms of violence against women. This year strategy focuses on the intersection of culture and violence against women: indeed culture has been used the world over by individuals and institutions alike to support beliefs and practices that perpetuate violence against women.

"Cultural hesitancy" is an issue for service providers in the UK which hosts a great diversity of refugee communities and other migrant groups. Other specific problems include lack of resources, lack of legal provision and lack of support from statutory organizations as well as lack of visibility.

And the government is now planning to extend the one-year concession rule to two years, thus further restricting access to public funds for women victims of domestic violence.

Little statistics on domestic violence amongst refugee and migrant women "silenced by status"¹

Policy makers, practitioners and related agencies have been increasingly concerned with forms of sexualised and racialised violence of which one of the most prevalent forms is domestic violence. Official statistics and

¹ We are grateful to Gilliane Williams, Research Associate, Lancashire Law School, who kindly agreed to contribute to this part.

other data sources have revealed high levels of domestic assaults, but it is nonetheless accepted that only a small percentage of such offences are known to police and other statutory agencies.

It is widely supposed that among minority communities, particularly Asian groups, these crimes are less frequently reported.² Moreover, in cases of uncertain immigrant status, instances of intra-family violence are even less likely to be reported whilst at the same time, "*an insecure immigration status often serves to compound their situation in abuse relationships*".³

Recent findings of the Economic and Social Research Council have confirmed that under-reporting of domestic violence is greatest when victims are women from ethnic minority groups. It has been noted that the continuing lack of credible data from official statistics prevents the formation of effective policy making in this field. Further, criticisms from women's groups such as Southall Black Sisters have highlighted reluctance on the part of practitioners and related agencies to intervene, partly due to "cultural hesitancy".

Compounding this lack of intervention is the reluctance of minority women to report incidents to authorities. A recent conference held by The Northern Circuit Domestic Violence Group in Blackburn⁴ revealed that cultural loyalties and fear of

² A national survey conducted in 1999-2001 by Southall Black Sisters (SBS) shows that South Asian women were in the majority, followed by African and East Asian women. See SBS, *The domestic abuse quarterly Summer 2002*.

³ SBS in *The domestic abuse quarterly Summer 2002*.

⁴ Organised with Blackburn Borough Council, the first of several conferences to discuss domestic violence in the Asian Community begun in Blackburn in October this year. The aim is to let the government know how its policies should reflect the particular needs of Asian victims of domestic violence. Further conferences are being planned throughout the UK, up to 2004 (Source: www.number-10.gov.uk/output/Page6228.asp)

"honour killings" meant that many women endured years of violence in silence.

The case of Ayaan Hirsi Ali, a Somali-born refugee woman, who faced death threats after talking on Dutch national television about the fact that "orthodox Muslim men frequently indulge in domestic violence against women living in Western societies as well as incest and child abuse", illustrates some of the difficulties minority women can face.⁵ She said she discovered the "suffering on a terrible scale" experienced by Muslim women in the Netherlands whilst working as an interpreter for the Dutch immigration and social services.⁶

Furthermore, women of uncertain immigration status, as documented by Women's Aid, are often fearful of approaching outside agencies for help and find difficulty in accessing funding (see below).

Yet Southall Black Sisters report that "*the longer women stay in abusive situations the more likely that the violence will escalate or women become more vulnerable to depression, suicide and self-harm. It is no surprise that Asian women are 2-3 times more likely to commit suicide*".

In response a study at the University of Central Lancashire has been initiated to generate data about the incidents and nature of domestic violence in multi-ethnic communities in the Northwest and to

⁵ Source: Andrew Osborn, 'Unlikely martyr who battled the mullahs forced to flee for her life', *The Observer*, 10 November 2002 at

www.observer.co.uk/europe/story/0,11363,837193,00.htm

⁶ Although the death threats were officially condemned through a declaration by 17 Muslim organisations, she feared for her life and was compelled to flee the Netherlands.

analyse that data in the light of current social policy concerns about family violence in minority ethnic communities inclusive of those with uncertain immigration status.⁷

Women Asylum Seekers at serious risk of lack of protection from domestic violence Securing protection for women refugees who fear violence on return to their country of origin represents one of the basic aims of the Refugee Women's Resource Project. Women who previously could not claim asylum under the Geneva Convention (unless they can fit the social group argument in Shah and Islam) in order to escape their abusive partners or male family members can now look to the Human Rights Act for limited protection.

But protection under the Human Rights Act comes in the form of four years Exceptional Leave to Remain with no automatic right to family reunions with ILR. So women who flee abusive partners, leaving their children in their country of origin, face months, sometimes years, of wrangling with the Home Office to allow their children to join them.

Additionally, RWRP receives regular phone calls on the advice line from survivors of domestic violence who report reluctance on the part of their solicitors, the Home Office and the immigration courts to accept domestic violence as grounds for a claim for international protection.

All the problems which face women refugees on arriving in the UK are amplified in a domestic violence situation.

- Women who are abused in their country of origin are often unable to access protection due to their perceived role in their society or for fear of shaming their family or for fear of increased violence from the abusive males of other family members
- Women are often unfamiliar with the protection structures in their country of origin and those in the UK
- Women who travel to the UK with abusive partners are often "dependant" on their partner's claim and unaware of their right to their own claim
- Disclosure often means rejection by the family, sometimes the community, and, under some religious laws, divorce can result in the loss of custody of their children
- Accessing independent legal advice from their partner may lead to further violence
- The standard of proof required by the Home Office in domestic violence cases is often unrealistic.

Then there are the practical issues that face women refugees who are survivors of domestic violence such as support, housing and sanctuary.

Current barriers to access protection

Accessing a safe place with sufficient financial and emotional support has always been a major issue for survivors of domestic violence. For women who have immigration issues the problem is exacerbated by funding issues for service providers.

Immigration issues are not restricted to those fleeing their country of origin because of domestic violence. Many women are brought into the UK as "wives"

⁷ The purpose of this study is to contribute to an understanding, to identify unmet needs, and to examine the possibilities of culturally appropriate responses in order that effective policies for protection and redress can be put in place. For more on the research or to contribute, please contact Gilliane Williams, Research Associate, Lancashire Law School at gillianewilliams@hotmail.com

and are excluded by the “public funds” provision from any help or support for a year after their marriage. There is a concession to this rule for the survivors of domestic violence which grants Indefinite Leave to Remain before one year probationary period expires if the marriage breaks up due to domestic violence. But in reality the standard of proof is set so high very few women actually benefit.

In order to benefit from the concession, which would allow a survivor to access benefits and housing independent of her abusive partner, she has to have taken out an injunction, non-molestation order or other protection order; a relevant court conviction against the sponsor; or full details of a police caution. In practical terms this requires a woman to take action against her abusers before they have access to sanctuary and protection.

A national survey conducted by Southall Black Sisters over a two phase period in 1999-2001 revealed a “widespread dissatisfaction with the concession and the no recourse to public funds rule” amongst the 266 agencies surveyed. Based on the experience of 829 cases, comments sent by the agencies included:⁸

“...The concession seems to take no account of cultural reluctance of family pressure to speak out, or indeed the battered wife syndrome...”

“The standard of proof required is beyond reasonable doubt, which is difficult to attain for asylum cases... For some cases the possibility of getting an injunction is further away than the moon...”

“Our applicant found it extremely difficult to take action especially since the police and

prosecution services are not willing to go further than recording the incident. Police are reluctant to prosecute... and do not generally caution...”

Judge rules in favour of victim in need of accommodation and support from social service

Statutory service providers have also at times put barriers to women’s access to protection. But a recent court judgement (2002) A11 ER (D) 61 (Oct) has strengthened the ability of domestic violence survivors to make successful applications for accommodation and support from social services departments, under Section 21 of the National Assistance Act. In a case involving Oxford County Council, the judge held that a woman who had suffered domestic violence, could be supported under this legislation. Oxford County Council had argued that her need for support arose solely out of destitution and that, therefore, she was excluded from the remit of the legislation. However, the judge held that the causes of destitution could give rise to needs that are encompassed by Sect. 21.

No easy access to NASS Another obstacle is the inefficiency of the National Asylum Support Service (NASS) which can have serious repercussions for women suffering from domestic violence.

NASS Policy Bulletin 18 sets out the procedures that NASS caseworkers should follow when dealing with domestic violence. However, as many asylum seekers and advisors are aware, the biggest hurdle is getting to speak to a NASS caseworker in the first place. Contacting NASS by phone is a time-consuming task, often unavailable to people without access to a phone or

⁸ All quotes reported by SBS, *ibid*.

unable to pay the resulting phone bills. Other forms of communication, such as letters, usually go unanswered for weeks or months.

Likewise “one Stop Shops” are often overstretched and unable to offer a thorough and sensitive service to survivors of domestic violence. RWRP has recently heard of a case of a domestic violence survivor who approached a regional One Stop Shop for advice after she had left her abusive partner. She was told that, despite the fact that she was receiving culturally specific support from a women’s project, she would certainly be dispersed out of that area if she applied for accommodation through NASS. It is in cases such as these, that a good advocate is necessary in order to build a strong case that demonstrates the need of domestic violence survivors for support, whether this is from relatives or from specialist agencies.

None of these factors encourage disclosure of a domestic violence situation which is already underreported as mentioned before.

The bad news is the government is proposing to extend the one year rule to two years. Unless the Home Office reduce the levels of evidence required to prove domestic violence and thus access protection this will inevitably mean many more women are trapped in abusive relationships for longer periods of time. Our action is therefore urgently needed to oppose the new proposal.

Further to supporting other organisations in their campaigns and representing refugee women subjected to domestic violence at the Home Office and through the legal systems Asylum Aid was invited to make

submissions to the GLA Scrutiny Panel Inquiry this month. The RWRP took this opportunity to make the following submissions on domestic violence:

- the provision of safe housing for the victims of domestic violence should be a priority
- the GLA should bring pressure to bear on London local authority social service departments to encourage them to treat victims of domestic violence as “vulnerable” and eligible for housing and support without onerous burdens of proof i.e. injunctions or police reports.
- London local authority housing departments should have an inter borough “tenancy exchange scheme” for victims of domestic violence.
- the safety of women in emergency housing in the borough should be a priority for the GLA.
- the GLA should support the efforts of its own domestic violence Forum and the Southall Black Sisters to persuade the government **a/** not to extend the probationary period from one year to two years for applicants on the basis of marriage thus forcing many women to stay in abusive relationships for longer **b/** to reduce the level of evidence required for a victim of domestic violence to qualify for public funds concession during this probationary period.
- the protection of this concession should be extended to all other victims of domestic violence in the asylum process.

Besides written and oral representations to the GLA, RWRP also represents the views of refugee women on the GLA domestic violence Forum which launches its annual report on the GLA domestic violence Strategy this month. As each London borough has a domestic violence Unit that feeds into the GLA domestic violence Forum, it is in a unique position to flag up

examples of good practice in the boroughs and to encourage other boroughs to follow this example. Many examples of good practice have been shared amongst the boroughs. For example all the domestic violence Units now have websites and the GLA domestic violence Forum has laid down the minimum standards for those websites.

One example of good practice in the field of refugee women and domestic violence is demonstrated by the Hackney domestic violence Forum which runs a Refugee Women's Sub Group.

The Hackney initiative recognises the unique experience and problems facing women refugees who are survivors of domestic violence, many of which are outlined in this bulletin.

Out of this initiative comes a partnership of experts in the field consisting of the London Borough of Hackney Community Safety and Partnerships Unit, the Refugee Women Association, Hackney Women's Aid and Derman, a community organisation for Kurdish and Turkish well being. The agencies are working together to develop a training programme looking at domestic violence issues and targeting service providers within the community as well as service users.

The programme aims to:-

- Challenge attitudes and perceptions within the community with a clear message that violence against women is a crime
- Increase the community's capacity to increase awareness and deal with domestic violence incidents appropriately
- To increase awareness of support services amongst community organisations and individuals
- Empower women and create a sustainable development in the community

Support us in our submissions

RWRP believes that:

- all survivors of domestic violence should have access to protection, safe housing and support, regardless of their immigration status, for the duration of their stay in the UK
- an extension of the one year concession will trap more women in abusive relationships for longer
- the standard of proof in domestic violence cases should be lowered and NOT require a victim to have resorted to legal action before protection is granted
- service providers should NOT put additional barriers in the way of survivors of domestic violence trying to access sanctuary
- training should be given to all front line staff to recognise and support survivors of domestic violence
- family reunion should be an automatic right for women granted ELR

Our project takes issues from casework and grassroots refugee and community organisations forward in our policy work. RWRP would particularly like to hear from you if you are a survivor of domestic violence or an advisor working on a domestic violence case involving NASS. We would like to hear from people who have successfully challenged NASS to provide suitable accommodation for a domestic violence survivor, or who are currently trying to get NASS to provide appropriate support. In this way, we can share information on the best tactics to use to help women find safety and security.

Support Womankind White ribbon campaign in the UK Events have been organised across the UK to raise awareness and funds to end violence

against women. Many have yet to take place, including the Greater London Development Agency's seminar to explore the gaps in service provision for survivors and perpetrators of domestic violence who also have substance misuse problems⁹ and the YWCA high profile exhibition and media campaign in Scotland, "104 Pairs of Shoes Exhibition" –with every pair of shoes representing a woman killed by domestic violence in Britain each year. For a full list of events/contacts, consult: www.womankind.org.uk/Events.doc

IF YOU NEED HELP CONTACT:

- Apna Ghar 020 7474 1547
- Childline 0800 1111
- Hackney Women's Aid 0207 683 1270
- Jewish Women's Aid 0800 591 203
- Muslim Women's Helpline 020 8904 8193
- Newham Asian Women's Project 020 8472 0528
- Northern Ireland Women's Aid 02890 331 818
- Rape Crisis 0115 900 3560
- Refuge 0870 599 5443
- Scottish Women's Aid 0131 475 2372
- Southall Black Sisters, 020 8571 9595
- Welsh Women's Aid 02920 390 874
- Women's Aid 08457 023 468

Recent reports relating to violence against women and domestic violence:

▶ "The cost of Violence Against Women and Girls, White Ribbon Day 2001", July 2002, Womankind worldwide available at www.womankind.org.uk/

▶ "World Health Organisation Global Report on Violence and Health" (published in October 2002, see WAN No. 26). Details on the report at: www.who.int/violence_injury_prevention To order a copy of the report, contact bookorders@who.int.

▶ "Women's Mental Health: Into the Mainstream, Strategic development of mental health care for women" (Department of Health, Oct 02) gives a voice to women who statistically and socially are much more likely to experience social isolation and poverty as well as child sexual abuse, domestic violence and sexual violence. All these factors have a major impact on women's mental health with wider implications as women fulfil various roles within their communities.

The consultation document highlights examples of service provisions across the UK that are genuinely empowering women and responding to their needs. But the document also found that violence and abuse are often not asked about and/or detected by mental health or other practitioners and that interventions and services are generally speaking poorly developed. It recommends raising awareness amongst professionals, training of staff and that the development of local expertise be addressed by providers.

A copy can be found in PDF at: www.doh.gov.uk/mentalhealth/womens-mentalhealth.pdf The DOH has also arranged a series of consultation/ listening events from 10-16th Dec in Birmingham (contact: Keren Corbett on 01527 587625), Bristol and Torquay (contact: Vicky Macdougall on 01452 380141). If you would like to participate, please book early to avoid disappointment.

⁹ For details contact Rachel Carter on 0202 983 5772 or Rachel.carter@london.gov.uk

SUPPORT SOUTHALL BLACK SISTERS POSTCARD CAMPAIGN AGAINST DOMESTIC VIOLENCE CONCESSION AND NO RECOURSE TO PUBLIC FUNDS RULE

Write to Rt. Beverley Hughes, MP, Minister of State, Home Office, 50 Queen Anne's Gate London SW1H 9AT. You can also write to your local MP (or contact SBS on Tel: 020 8571 9595, email: sbs@leonet.co.uk for further details).

Dear Beverley Hughes MP,

Re: Reforms to the domestic violence Concession and No Recourse to Public Funds Rule

I write to urge you to adopt the following proposals:

- The domestic violence concession is written into the immigration rules, stating that:

“Indefinite leave to remain is to be granted to a person who is the victim of domestic violence or serious abuse provided that”:

1. *The applicant has recently had limited leave to enter or remain in the United Kingdom as the spouse or unmarried partner of a sponsor; and*
2. *That the sponsor is a UK citizen or a person present and settled or with limited leave leading to settlement; and*
3. *The applicant is no longer living with the sponsor; and*
4. *The applicant can establish that domestic violence, or other serious abuse, was the reason for the breakdown of the marriage or relationship with the sponsor.*

- The test for establishing domestic violence should be based on a balance of probability, rather than beyond reasonable doubt, and accept reliable evidence of any form including legal judgements, injunctions, undertakings, convictions, medical evidence (including psychiatric reports), letters, witness statements, reports from women's aid/centres, expert reports/opinions and the victim's own testimony.

- Allow victims of domestic violence access to public funds, which is a pre-requisite for leaving abusive relationships. They should be entitled to Council housing and social security benefits, particularly income support, which can be reclaimed by the State from the sponsor (provided there no risk of reprisals).

- In the interim, provide central government funding for victims and organisations helping them, such as refuges and hostels, to cover housing and living expenses pending the outcome of immigration applications, including any appeals.

- The one year probation should not be extended to two years as it will entrap women and children in violent situations for a longer period, endangering lives as it is well documented that domestic violence escalates over time and abused women, particularly Asian women, are more vulnerable to suicide and self-harm.

Date:

Name:

Address:

Signature:

Trafficking: the long road to protection

An increasing number of research and campaigns and lobbying efforts on the complex issues of trafficking have not yet resulted in a common agreement on protection for victims of trafficking. Part of the problem, as Mike Kaye explains below, is that not all forms of trafficking are recognised. In the case of trafficking of women, Professor Liz Kelly contends that the root causes need also to be fully explored. The result of this lack of understanding is that legislation all over the world fails to fully address the protection needs of victims and deter traffickers from operating.

Trafficking for labour exploitation¹⁰

There has been considerable publicity about the trafficking of human beings for sexual exploitation, but trafficking also takes place for other forms of labour exploitation. The United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, 2000, makes clear that people are also trafficked when coercion or deception is used in order to exploit that person through forced labour or services, slavery or practices similar to slavery.

This means that people who migrate for work in areas like agriculture, catering, construction or domestic work, but then find themselves coerced into working in conditions they did not agree to, are also trafficked persons. Debt bondage, threats or use of violence and removal of travel documents are some of the mechanisms commonly used to maintain control over a trafficked person.

The Perm Centre is an NGO which works in Perm, Russia, and has documented a number of cases in which Russian men have been trafficked to Spain to work in construction or harvesting fruits. In 2001, 11 people paid a firm US\$1,250 to arrange well paid work in Spain harvesting citrus fruit. On arrival their passports were seized and they were forced to work for months without pay. Five of the Russians eventually managed to return but there is currently no law against trafficking in Russia and the only charge brought against the perpetrator was for non-payment of taxes and the individual was not convicted.

In the USA, an investigation launched by the Department of Justice into the case of a woman physically and verbally abused by her employers – who had obtained a visa as a domestic worker for her – failed to bring charges against them. Whilst the investigation was taking place, the employers continuously harassed her and the family she was living with after her escape. Yet the government took no action to stop this, despite repeated requests from the Campaign for Migrant Domestic Workers who assisted her case. After two months, she decided to return to her country of origin.

Other cases show trafficking for labour exploitation is a global concern that also takes place between developing countries as well as across regions and within countries.

These examples highlight some of the problems that need to be addressed in order to tackle trafficking for labour exploitation. These include the need for early identification of potential trafficked persons; the existence of legislation which prohibits and punishes trafficking for all forms of exploitation; the provision of

¹⁰ We are grateful for Mike Kaye, Anti-Slavery International, for this contribution to the issue. Contact: mkaye@antislavery.org.uk

appropriate support and assistance to trafficked persons, including witness protection; and measures to tackle discrimination and social exclusion which compel people to look for work abroad.

One of the main problems facing those trafficked into sectors other than the sex industry is that they are even less likely to be identified as trafficked persons and will therefore be seen as illegal migrants and face immediate deportation. The case of a woman asylum seeker who escaped domestic slavery in the UK - and which was recently highlighted by campaigners and the media - provides a typical example:

In a book published in September 2002 in Germany, Mende Nazer described how she had been shipped to London on false papers to work as an unpaid maid for the acting Sudanese chargé d'affaires, Abdel Al-Koronky, before escaping from his home. In October her claim for asylum was rejected, as the Home Office "did not accept she had been brought to the UK as a slave". She would have been deported if it were not for the campaign led by the National Coalition of Anti-Deportation Campaigns and the intervention of Baroness Caroline Cox, Deputy Speaker of the House of Lords who is a prominent campaigner against slavery in Sudan.

Immigration minister Beverley Hughes overturned the decision to refuse her asylum explaining in a letter to Mende's solicitor, "regrettably, the letter giving the reasons for refusing Ms Nazer's claim did not deal clearly with some of the issues regarding credibility or the objective country information on Sudan." She said the HO had not been aware of the book.

Mende Nazer will now have to re-submit her asylum application.¹¹

Many of those trafficked for agricultural or domestic work will not see themselves as victims of a human rights violation and rarely seek help, thinking that their situation may improve, that they will eventually pay off their debts or fearing that they will be deported.

With this in mind, one of the most effective solutions to reduce trafficking would be to increase the opportunities for regular migration where there is a demand for labour and ensure that there is proper protection from exploitation for these migrant workers: it would negate the need for migrants to go to people who then turn out to be traffickers. However, many Governments still fail to recognise that there is a demand for both skilled and unskilled labour in their countries and to date no EU Government has signed the United Nations Convention on the Protection of the Rights of All Migrant Workers and their Families, 1990.

Understanding the roots of trafficking of women An estimation of 700,000 women and children trafficked on a global scale each year comes from the US Department of State (2002). In the late 90's a number of sources suggested that trafficking in women had exceeded the profits from drugs and arms smuggling and more recently the consensus position appeared to be that trafficking in women represents the third largest source of profit to organised crime after drugs and arms.

But, according to Prof. Liz Kelly of the Child and Woman Abuse Studies Unit at the University of North London most countries

¹¹ Source: Mende Nazer Asylum Campaign at <http://www.ncadc.org.uk/letters/news28/mendenazer.html>. See also David Leigh, 'Diplomat's 'slave' can stay in UK', *The Guardian*, 12 November 2002.

still lack systems for monitoring trafficking with data on detected cases hidden in prostitution and immigration offences.¹²

In order to collect data effectively and accurately reflect the size and growth of the problem Prof. Kelly says there is a clear need for baseline data to be collected in the same format across Europe. This would be invaluable to work towards the reduction of crime and the protection of victims as well as campaigning and lobbying to introduce European wide policies and national legislation. But Prof Kelly's report goes far beyond such considerations looking at the definitions and the root causes of the problem.

She clearly differentiates between human smuggling and trafficking: "Anyone placing him or herself in the hands of smugglers surrenders a degree of control over their fate, and for some this may result in being trafficked into sexual exploitation. Indeed many women believe that the contract they are making is to be smuggled in order to take up a legitimate offer of employment. Applying the categories "forced" and "free" prostitution to trafficking runs the risk of denying assistance to women who in fact choose to migrate to work in the sex industry, but who, nonetheless, are deceived and sexually exploited in a destination country."

And she extends the definitions of "sexual exploitation" to include pornography and other sex industry activities, such as live sex shows, peep shows, stripping and lap dancing.

She highlights the Palermo 'Definition of trafficking in human beings from the UN Optional Protocol, 2000:

For the purposes of this protocol:

(a) "Trafficking in persons" shall mean the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat of use of force or other forms of coercion, or abduction, of fraud, of deception, of abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purposes of sexual exploitation.

Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs.

(b) The consent of the victim of trafficking in persons to the intended exploitation set forth in paragraph (a) of this article shall be irrelevant where any of the means set forth in the subparagraph (a) have been used.

The links between trafficking and gender inequality Prof. Kelly highlights areas where there is "substantial agreement" on the causes of trafficking. These include: globalisation of transport, markets and labour; poverty; women's inequality; economic transition; and economic and social dislocation due to conflict.

But she also challenges the traditional migration studies where women have been considered "dependant" or secondary migrants, accompanying or following male family members. This perspective needs to be revised, she states, since there is

¹² Liz Kelly, "Journeys of Jeopardy: A Commentary on Current Research on Trafficking of Women and Children for Sexual Exploitation Within Europe", paper presented at the EU/IOM European conference on Preventing and Combating Trafficking in Human Beings', 16 September 2002 (Draft version). Available at: www.belgium.iom.int/

increasing “primary” migration by women, and areas of labour where women represent the majority of migrant workers, for example, domestic service. Prof. Kelly records “less sophisticated analyses” that tend to focus on the issue of poverty “which is seen to propel women into accepting dubious offers of employment.” She claims this “oversimplifies reality”.

She draws attention to gender inequality and sex discrimination in countries undergoing transition and/or post-conflict reconstruction: “Recent history suggests that women’s economic and social position is undermined in unregulated and illicit markets, as power and control of legitimate and illegitimate sectors in increasingly concentrated in male hands”. She continues: “The “lure” of the west is not just about economics, but also, for some young women, a possibility of perceived freedom.”

The fact that women’s inequality underpins trafficking becomes even clearer when the background of the women and girls is explored. Many of them are eager to escape families or situations where domestic violence and sexual abuse are regular events.

Highlighting the “responsibilities on donors and governments to make gender equality a European and global priority” Prof. Kelly notes: “There are many countries where poverty is endemic and transitions in process, but not all become epicentres for trafficking. At least one condition is that the organisers – traffickers and exploiters – target an area. What motivates this targeting remains vague, although there may be correlates with indexes of gender inequality.”

The International Labour Organisation (2002) links “a crisis of economic security” with the gendered impact of *increasingly*

*restrictive legal migration options.*¹³

Restrictions affect women disproportionately, since the limited legal options tend to be in areas of traditional male employment.

“The layers of connection between trafficking and gender inequality points to the need for more dialogue and cross-fertilisation between research on trafficking and gender/feminist studies. Of particular interest here is the matter of uneven progress within Europe (and globally), where trafficking flows are from regions where women’s political, social and economic position has declined and patriarchal systems remains entrenched, to those where levels of formal equality are stronger.”

The current proposals re: protection in the UK Although attempts to amend the Nationality, Immigration and Asylum Act to ensure the prosecution of traffickers and the protection of victims failed in the House of Lords proposals announced last week in the Queen’s speech may address some of the issues.

The amendments proposed in the House of Lords by Anti Slavery and the Counter Trafficking Group reflected the definition of “trafficking” by the United Nations protocol to prevent, suppress and punish trafficking in persons, especially women and children. The same definition was used in the European Union framework decision on combating trafficking. This would then include, by definition, trafficking for labour exploitation. The amendment also removes the need to prove that the trafficker has directly benefited for the purposes of gain.

Further amendments were proposed to protect and provide for the needs of the

¹³ Our emphasis.

victims of traffickers including the introduction of a 30-day reflection period during which no removal action would be taken and the victim could make an informed choice about her future whilst in safe accommodation.

The Government response to the amendments was given by Lord Filkin who said: "We intend to introduce comprehensive legislation as soon as we can (...). Where someone is a victim of trafficking, we shall offer them support to escape their circumstances. Where they are willing to come forward and assist, we shall, if necessary, make arrangements for their protection. If we conclude that they would be at risk in their country of origin, we recognise that it may be appropriate to allow them to remain in the UK."

He went on to say: "We have therefore decided not to opt for the European directive, which would provide a 30 day reflection period for victims of trafficking and illegal entrants. That decision was based largely on the fact that the reflection period would also apply to illegal entrants."

In relation to parliamentary questions it was stated that legislation for labour and sexual exploitation would be introduced by July 2004 and the Government was committed to providing assistance to victims and will introduce a pilot scheme next year.

The Queen's Speech included a Sexual Offences Bill and the Criminal Justice Bill. But until the wording of the two bills has been examined it will not be clear whether the legalisation will include measures to combat trafficking for prostitution and labour exploitation.

However, RWRP, Anti Slavery, the Counter Trafficking Group and many other organisations are still campaigning for trafficking legislation which will enable the police to prosecute traffickers while

providing safety and support for the victims irrespective of whether they cooperate with prosecutions or not, as advocated in the Brussels Declaration.

The **Brussels Declaration** - the final text agreed by participants in the EU/IOM conference on trafficking (18-20 Sep 02) - states that there should be adequate funding for shelters and assistance to victims of trafficking; victims of trafficking should not be criminalized or detained for offences resulting from their being trafficked; immediate removal or victims of trafficking should generally be avoided; and that short term residency permits and reflection periods should be available.

Links & References ♦ Anti-Slavery International at: www.anti-slavery.org.uk ♦ National Missing Persons Helpline at: www.missingpersons.org ♦ International Organization for Migration (where you can find full details of Prof. Kelly's report) at: www.belgium.iom.int/STOPConference/Confdocs/Confpapers/index.htm

IF YOU NEED HELP, CONTACT:

- **Anti-Slavery International, contact: Mike Kaye, Tel 020 7501 8932 or email m.kaye@antislavery.org**
- **International Organization for Migration, contact: Diane Grammer, Tel: 020 7233 0001**
- **National Missing Persons Helpline, contacts: Juliet Singer or Bruce Middleditch, Tel: 020 8392 4595 or 4593, or email: policeliason@missingpersons.org**
- **West Sussex Social Services, contact: Lynne Chitty, Tel: 01903 821 852**

UK News/Projects

New Beginnings is a new support group based at the Globe Centre, London E1, targeted specifically at asylum seekers, refugees and Africans affected by HIV. The group will provide free courses with weekly weekday evening sessions covering anger and stress relief, supporting an HIV Positive child, doctor/patient communication, management of HIV and other issues.

For more information about the project and details of courses for 2003 contact the project co-ordinators Myra Mporokoso, Jacob Njala or Darren Ravenor on 020 7791 2855.

Community Fund supports BIHR

Outreach Project The British Institute of Human Rights has been granted £105,000 to fund a community outreach programme whose aim is to raise awareness about human rights with those voluntary and community groups who help some of the most marginalised people in the community including refugees, asylum seekers, disabled people, the elderly and those with mental health problems. From early 2003, BIHR will run tailor-made workshops and study days in partnership with these groups. For more information contact Sarah Cooke or Candy Whittome, 020 7401 2712

Funding Cut Women Against Rape, one of the few organisations that provides specialist counselling support and advice to asylum seekers and refugees, has had its funding from the Association of London Government cut. WAR is recommended by a number of organisations, including the Medical Foundation, and has been providing a specialist service since 1976.

Public meeting: Asylum rights are human rights

is organized by the Committee to Defend Asylum Seekers and Barbed Wire Britain who have come together to mark Human Rights Day by highlighting the government's serious assault on refugee rights and gives a voice to those who want to campaign against the provision of the new Act on Immigration and Asylum (2002). On Tuesday 10 December, 7.30pm, in Room 3D, University of London Union, Malet Street, WC1.

Speakers: Louise Christian, civil rights lawyer, John McDonnell, MP for Hayes & Harlington, Ladislav Balaz, Europe-Roma, Emma Ginn, Campaign for Justice in the Yarl's Wood trial.

International News

Campaign of torture and rape still haunts the people of Chechnya In a damning article on the atrocities committed by Russian troops in Chechnya, Polish writer Krystyna Kurczab-Redlich described how people in towns and villages were chased on to a field to be made to watch women being raped. When men tried to defend them 68 men were subsequently raped. Many families continue to experience the loss of relatives, male, female and children, whose bodies are being destroyed so that they cannot be counted or found.

Human Rights Watch New York reports that torture is the preferred method of gathering information. Those who come back from abduction often return crippled, with few chances of bearing children. The writer also stresses a radicalisation of the resistance of the Chechen guerrillas, in response to the Russian atrocities, who

she says are guilty of “savagery” especially against anyone suspected of collaboration.¹⁴

Islamists sentence feminist writer to beheading After the sentence against exiled writer Taslima Nasreen in Bangladesh for her latest publication (see WAN No.26), Black Sudanese feminist Kola Boof has had to postpone indefinitely the release of her “Diary of a lost girl” following death threats against her.¹⁵

On 26 September members of the Muslim government of Sudan issued a fatwa against Boof and sentenced her to beheading for “deliberately and maliciously bearing false witness against religious sentiment and of ‘willing treason’ against her Arab Muslim father’s people and against her nation, the Sudan.”

Boof has vowed that she would continue writing books and telling her own experiences - “even when those experiences are unflattering and threatening to the Arab Muslim regimes.” Boof condemned publicly the sexual abuse of “African women” and “Black boys” under the current Islamic regime. For more information, visit:
<http://mirrormax.i8.com/about.html>

Many young Ethiopian women are dying from illegal abortions More women in Ethiopia die from complications from illegal abortions than from any other medical reason save tuberculosis, the World Health Organization reported last

month. About 70 percent of women brought to hospitals after suffering complications from illegal abortions die, according to the international health group. Out of 100,000 women who have back street abortions in Ethiopia, 1,209 die, mostly women 16 through 20, the Integrated Regional Information Networks (IRIN) news service of the United Nations reported.¹⁶ Abortion is illegal in almost all circumstances in Ethiopia and back street abortions are common.

Danish political leaders ask for the end of female genital mutilation (FGM)¹⁷ An angry debate started in Denmark when imams representing the Somali immigrant community demanded that girls be circumcised, as one declared that FGM was a “religious duty”. The imams said Islamic tradition should take precedence over Danish law.

The imams’ declarations were followed by a series of angry reactions, prompting proposals for Muslim girls to be inspected by school doctors, the application of the criminal law against “parents whose daughters had been operated on”; or the placement of girls who were “circumcised” in foster homes and the expulsion of their parents from the country. The medical sector fear however that such proposals will keep girls away from medical examinations undermining the identification of other health problems.

The debate illustrates the difficulties in raising awareness against FGM in migrant and refugee communities in western

¹⁴ Source: ‘Torture and rape stalk the streets of Chechnya’, *The Observer*, 27 October 2002.

¹⁵ Sources: www.lafeminite.com; Yi Nee Ling, staff@Northafrican-bookexchange.com;

¹⁶ Source: www.irinnews.org, ‘Ethiopia: High death rate from illegal abortions’, 28 October 2002.

¹⁷ Sources: Daily Telegraph, www.telegraph.co.uk, and Medical Women’s International Association, http://mwia.regional.org.au/papers/papers/21_jorgensen.htm.

countries. In theory all forms of FGM are illegal under the Danish penal code. But despite a series of information programmes since the 1990s and support from some members of the Somali community, in many cases the authorities have been unable to prevent parents sending their daughters “on holiday” for the procedure. Danish health authorities estimate that 3,000 girls up to the age of ten are at risk.

International Campaign: Only 5 more weeks to ensure women on the International Criminal Court Keep sending letters and identifying qualified women committed to gender justice by joining the Women’s Caucus for Gender Justice’s campaign at www.iccwomen.org. The elections of judges for the ICC will be held from 3-7 February 2002 at UN Headquarters in New York. Currently, 16 candidates have been officially nominated and only 5 are women. The rules adopted by the Assembly of States Parties ensure that the ICC elections will be the first for an international judicial institution subject to minimum voting requirements for women. But women must be first nominated as candidates. If by the end of 30 November 2002 there are fewer than 10 women candidates, the President of the Assembly is mandated to extend the nomination period by one week.

The Rome Statute of the International Criminal Court has set a new standard in international law as regards crimes of sexual and gender violence. The judges of the ICC must play a critical role in continuing the development of progressive jurisprudence relating to crimes of sexual and gender violence that was begun in the ad hoc tribunals for the Former Yugoslavia and Rwanda.

✿ Publications/ Resources ✿✿✿

✿ **Gender Asylum Law in Different Countries: Decisions and Guidelines** (1st Edition Vol. I, By Mimi Liu and Laura Black) This publication by the Women Refugees Program of the Refugee Law Center contains national gender asylum guidelines, 37 full text gender asylum decisions and case summaries for cases in the US, Canada, UK and New Zealand. Issues addressed include domestic violence, rape and forced marriage as a basis for refugee protection. To order, go to: www.refugeelawcenter.org

✿ **Asylum seekers’ health may get worse after entry to the UK**, according to the British Medical Association’s Board of Science and Education new report “*Asylum seekers: meeting their health care needs*”. Dr Vivienne Nathanson, BMA’s Head of Science and Ethics, said that the findings were being released at this point because it was essential that new policies should take account of what had gone wrong in the past and that future procedures should safeguard the health of asylum seekers.

The report highlights a number of failings in the routine treatment of asylum seekers including the lack of medical testing for a range of communicable diseases and the failure to provide appropriate help for refugees suffering from the physical and psychological effects of war, torture, rape and gender-based violence and abuse. Different groups, such as women, children and the elderly have specific needs that are not being recognised and met.

Female asylum seekers may face particular problems but screening and health promotion programmes have a low take up among women refugees and there

is a need for provision of sexual health care, family planning and maternity care that is sensitive to different cultures.¹⁸

Besides specific recommendations for health professionals, the report opposes the use of procedures that affect the social well-being of asylum seekers such as detention and segregated education and highlights the need for more research on the impact of UK immigration controls on health. A copy can be found at: www.bma.org.uk/science/publications or contact: BMA Science and Medical Education Department, Tel: 020 7383 6755; email: info.science@bma.org.uk

✿ **Guide to Health Workers Providing Care for Asylum Seekers and Refugees**, by Dr Angela Burnett, provides practical information on addressing the needs of asylum seekers and refugees. Besides issues such as counselling victims of torture, topics covered by the report include “culture and health”, “needs of women”, “family violence”, “legal entitlements to healthcare” or “working with interpreters”. A copy can be found at www.torturecare.org.uk/archivebfr/brief27.rtf

✿ **New Report on Citizen's Advice Bureau experience of the NASS System “Distant Voices”** is a new report setting out a catalogue of evidence of clients experience of continuing problems with the National Asylum Support Service based on 400 case reports from CAB in England and Wales in the 6 months to the end of August 2002. Available from the Social Policy Department, NACAB, Myddleton House,

¹⁸ This publication follows another damaging research report, “[Disabled people in refugee and asylum seeking communities](#)” according to which disabled refugees and asylum seekers face isolation and hardship in Britain, without proper support from social services and NASS.

115-123 Pentonville Rd, London N1 9LZ (£6)

✿ **Addressing Gender-based Violence in Refugee, Internally Displaced and Post Conflict Settings** by Jeanne Ward gives a comprehensive overview of gender-based violence in a variety of different settings. There are country profiles from Africa (Republic of Congo, Rwanda and Sierra Leone), Asia (Afghanistan/Pakistan, Burma/Thailand and East Timor), Eastern Europe (Azerbaijan, Bosnia, Herzegovina and Kosovo) and Latin America (Colombia, Guatemala, and Nicaragua).

✿ **The UN Secretary General's ‘Report on women, peace and security’** (16 Oct 02) calls for the strengthening of mechanisms to ensure that the gender perspective is incorporated in all efforts to maintain peace and security.

The report describes a large number of ways in which women may be put at risk such as the use of sexual violence as a strategic and tactical weapon of war and the threat of contracting sexually transmitted infections and HIV/AIDS. Some women become armed combatants or collude in acts of violence. Others may be forced to follow armed forces, providing domestic services and/or being used as sexual slaves. The role of women in ensuring food, water and energy for household use may put them at risk of being injured by landmines, in cross-fire and by sexual abuse.

The report stresses that where cultures of violence and discrimination against women and girls exist prior to conflict, they will be exacerbated during conflict. If women do not participate in the decision-making structures of a society, they are unlikely to

become involved in decisions about the conflict or the peace process that follows.

A number of specific actions are proposed, including the inclusion of judges and advisers with legal expertise on violations of the rights of women and girls in ad hoc tribunals created by the Security Council; and respect for the interests and personal circumstances of women and girl victims and witnesses in crimes involving sexual or gender-based violence. For the report's full text, see: www.un.org/english/engtxt.htm.

🌟 **First Annual UNHCR Statistical Yearbook** The new yearbook provides an overview of global forced displacement over the past decade, including specific information on trends in industrialized countries and comprehensive data on refugee populations worldwide. It will be produced annually and a copy. A copy will be available at www.unhcr.ch/statistics.

🌟 **Law of Asylum in the United States** A supplement to accompany the third edition of *Law of Asylum in the United States* by Deborah Anker has just been published. The 2002 Law and Procedures Supplement contains all recent case law (substantive and procedural), the latest in asylum, Convention against Torture (CAT) procedures, new rules and instructions on filing deadlines, and otherwise impossible to find unpublished decisions. The Supplement can be ordered from the publisher, the Refugee Law Center Inc. www.refugeelawcenter.org

🌟 **RADAR: Refugee Resources in the UK 2003** is the first national CD-Rom directory to bring together organisations providing services for refugees and asylum seekers was launched by the Refugee

Council on 12th November. The directory lists over 1,100 service providers across the UK, which can be searched by region, organisation type or keywords. Source: www.refugeecouncil.org.uk/news/nov2002/relea092.htm

🌟 **www.refugeeaccess.info** is the website for asylum seekers, refugees and agencies working in Yorkshire and Humberside. You will find links to a directory of services, a best practice showcase and translated information briefings (in Albanian, Arabic, French and Somali). The website is still under development.

🌟 **www.e-refugee.ca** is a new website to provide refugees and refugee advocates with the necessary electronic/online tools to present and to prove their refugee claims in Canada. It currently contains an extensive index of external resources relating to refugee law in Canada and elsewhere (see the "resources") and a launched a refugee law e-mail newsletter which will be available by free subscription at newsletter@e-refugee.ca.

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🌟 **The Refugee Women's Legal Group is planning a major European conference in June 2003.** RWLG is a group of refugees, lawyers and community activists working to promote a gendered perspective in asylum law and process.

We would welcome new people with energy and ideas to help plan the conference. To find more about the work of RWLG visit: www.rwlg.org.uk. New members are welcome to join in regular monthly meetings held at the ILPA office, Lindsey House, 40-42 Charterhouse

Street, London EC1M 6JN on the second Thursday of each month at 6pm. The next meeting is Thursday 12th December 2003 at 6pm.

● **Islington Law Centre is recruiting a female Locum Immigration Caseworker** – 1 year **£29,935 pro rata 4 days a week, from February 2003**. The post holder will enable ILC to continue to provide services to women who wish to instruct a female solicitor. For details and an application form, please email your full postal address to: info@is-law.org.uk or send a self addressed A4 envelope to Islington Law Centre, 161 Hornsey Road, London N7 6DU. Closing date: 2nd January 2003

● **The Medical Foundation for the care of Victims of Torture, Manchester Office is looking for an experienced counsellor** who has the skills to develop a new service. Experience of working with refugees who have survived trauma including torture and organised violence is essential. Salary: £30,000 p.a pro rata: 4 days per week. For details contact: People Media Tel: 020 7420 2080 Fax: 020 7420 2071 or email: response@peoplemedia.co.uk Closing date for applications: Friday 29th November 2002, interview date: Thursday 19th December 2002.

● **Human rights advocacy training for refugees and members of the Middle East Diaspora** World University Service is seeking applicants for its Middle East course 2003. The course provides practical training for refugees from the Middle East and members of the wider Diaspora who are/want to work to promote human rights in the Middle East. For further information please contact Richard Germond at International Division, World University Service (UK), Direct line: +44 20 7426

5825 or email:

richard.germond@wusuk.org or ratp@wusuk.org. Application deadline 2nd December 2002. Course begins 15th January 2003.

●●● **Last but not least, our readers' comments on WAN 2002!**

This month we decided to publish some of the comments we received from our readers in the last year. Thank you all and please continue sending us your reactions and suggestions for future issues of WAN!

- "Thank you for giving me the chance to receive your bulletin... I have to admit it is very interesting and informative. I am impressed!" Katerina, UK, April
- "I just wanted you to know how much I enjoy receiving the Asylum News bulletins. I am a doctoral student in refugee law in the US and so it's great for me to keep abreast of developments in Europe via your newsletter.". Michelle, USA, June.
- "I read with great interest the 2 articles on women asylum seekers with HIV in the last 2 editions of Women's Asylum News. The articles were both informative and clear." Ulla, UK, July.
- "Congratulations on Women's Asylum News, it's excellent!" Jane, UK, August.
- "Thank you for your great bulletin. It is very good and authentic work. You have provided us with an additional tool to make our work more effective." Ezat, UK, September.
- "I find your articles very informative and useful for my work with immigrant and refugee women here in the US" Leni, USA, September.

If you want to subscribe to our free bulletin 'Women's Asylum News' by post or by email, please contact Peggy Saint-Auret on 0207 377 5123 or at peggy@asylumaid.org.uk.

women's ASYLUM NEWS

Produced by RWRP (for more details on information in this issue, contact

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We are very grateful for the support of Matrix Chambers who have been funding the publication of Women's Asylum News in 2002. Any views expressed in this publication are those of the authors. Any legal information in this bulletin is intended as a general guide only, and should not be used as a substitute for legal advice. Any contributions from, or references to, external sources (including website links), agencies or individuals do not necessarily reflect the views of Asylum Aid nor receive our endorsement.



Asylum Aid provides free legal advice and representation to asylum-seekers and refugees, and campaigns for their rights. Registered as a charity no. 328729. To support Asylum Aid's work, please complete and return the form below to Asylum Aid, FREEPOST LON18836, London, E1 6BR (however, using a stamp will save us money)

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