

women's asylum news

refugee women's resource project @ asylumaid

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Rape is grounds for asylum says US Court

A federal court in San Francisco, USA, has ruled that a Guatemalan woman, Reina Izabel Garcia-Martinez, who was gang-raped by soldiers who suspected her family of supporting anti-government guerillas may seek asylum in the United States.¹

Rape dismissed as a random criminal act by immigration judge

On 15 June 2004, the three-judge panel of the Ninth US Circuit Court of Appeals overturned a negative decision by the federal Board of Immigration Appeals, finding that the immigration judge had overlooked evidence of persecution '*stamped on every page*' of Garcia-Martinez's original asylum petition. In the initial decision, the judge said that the woman had failed to demonstrate past persecution and in particular that '*her attack had anything to do with (...) her political opinion, her race, religion, her political affiliation or membership in a particular social group*'.

Reina Izabel Garcia-Martinez had told the judge how in the early 1980s leftist guerrillas had forcibly conscripted young

¹ Garcia-Martinez v. Ashcroft, 02-74068. Source: Tyche Hendricks, 'U.S. court Rules rape is grounds for asylum. Guatemalan granted a new hearing before immigration board', the *San Francisco Chronicle*, 16 June 2004 at www.sfgate.com/cgi-bin/article.cgi?file=/c/a/2004/06/16/MNGEO76SDE1.D.TL.

men from her village into their ranks and kidnapped her brother. According to her testimony, a few years later the Guatemalan military started to beat people and rape women on a regular basis in the belief that the villagers were supporting the guerrillas. She was gang-raped in 1993 at the age of 19 and was subsequently sent to a family member's for safety by her parents before going to San Francisco via Mexico.

The Ninth Circuit found that the initial *'determination that Garcia's rape was a random criminal act, unconnected to the government, is not supported by substantial evidence'*. The Court cited a UN commission's findings that rape had been used systematically by the Guatemalan military during the country's civil war as support for its ruling. According to the *San Francisco Chronicle*, an expert on human rights in Guatemala, University professor Angelina Snodgrass-Godoy, confirmed that rape was routinely used to intimidate whole villages.

Crucial case for 'women struggling to have their rights identified in the same way as men' says attorney

Jayne Fleming, the attorney who argued the appeal for the Center for Gender and Refugee Studies, explained how gender-specific forms of persecution such as rape do not automatically beget the same level of protection as other forms of persecution: *'If a man said, "I was beaten by military soldiers," we would assume it was persecution for some reason, say political or ethnic, to close the door to protection for these women*

simply because it was rape is unfair to women.'

Stephen Knight, coordinating attorney at the Center for Gender and Refugee Studies, Hastings College of the Law in San Francisco confirmed that although rape has been considered as a grounds for asylum since 1996 in the USA, too often it is dismissed as an act of lust by individual soldiers. This dismissive approach is not unknown in the UK courts: Rose Najjemba's rape by state agents was described as *'simple and dreadful lust'* by the Adjudicator at the Immigration Appeal Tribunal, a view which was later shared by the Court of Appeal.²

Commenting on the decision in the USA, Stephen Knight said: *'It sends a very strong message that these antiquated perspectives on gender violence that are rife throughout the [immigration] agency are unacceptable and need to be rejected. (...) It is part of an evolving recognition that these women's cases are not different but that women fleeing brutal gang rape in war, domestic violence and sexual trafficking are refugees and that the laws of asylum need to be applied to them in a fair and honest way.'*

Although Garcia-Martinez is still awaiting a new asylum hearing, it is thought that the ruling could affect thousands of survivors of sexual assault during wartime.

related news

² She won her right to stay in the UK only after the launch of a public campaign. See WAN Issue no. 31, 'Leave granted to woman who lost at every appeal stage', April 2003.

Wave of women and girls' killings highlights lack of protection in Guatemala

The killing of a seven-month pregnant woman, Rebeka Viera aged 15, on 20 July 2004 is the latest in a series of killings of women and girls which has reached 260 in the country so far this year (compared to 386 in the previous year).³ The number of women's murders is believed to be on the rise and frequently involve sexual abuse.

Women activists say that women are a soft target in drug feuds or killed in domestic violence whilst the government is not taking any concrete action to protect them and investigate the crimes: *'Many have died because their brothers or relatives are involved and owe things; they grab the weakest person'*. Rebeka Viera's relatives said that judicial officials have been negligent and another mother, whose daughter was raped, tortured and killed in 2001 told Reuters that officials laughed at her when she asked for an investigation and told her to investigate herself.

Furthermore, Reuters reports that a number of women's organizations that have demanded investigations into the murders of women have been broken into or threatened in recent weeks.

UK news

³ Source: Frank Jack Daniel, 'Guatemala shocked by wave of women's murders', Reuters, Guatemala City, 21 July 2004, at www.alertnet.org/thenews/newsdesk/N21522532.htm.

New research highlights negative health impact of dispersal of HIV positive asylum seekers

A survey conducted amongst doctors working in genitourinary medicine revealed they were concerned about the short notice of dispersal of asylum seeking patients⁴ and inadequate transfer of medical details which could result in a detrimental impact on the patients' health including the development of resistance to antiretrovirals, and mother-to-baby transmission of HIV, according to a paper published by the British Medical Journal (31 July 2004). Through anonymous questionnaires doctors were asked about their experience and opinion of the appropriateness of dispersal in 10 clinical scenarios as well as about perceived barriers to effective dispersal.

Three clinicians blamed dispersal for mother-to-baby transmission of HIV, and two doctors said that dispersal had contributed to the death of patients under their care. The researchers concluded: *'Doctors believe that dispersal is disruptive, may compromise HIV care, and may lead to increased transmission.'*⁵ They also conclude that dispersal may lead to avoidable morbidity and mortality in the asylum seeker.

⁴ Asylum seekers receive only 48 hours notice of dispersal and if they refuse to be dispersed face the immediate end to income, housing and legal support.

⁵ A copy of the summary paper 'Dispersal of HIV positive asylum seekers: national survey of UK healthcare providers' by S Creighton, G Sethi, S G Edwards and R Miller, can be found at <http://bmj.bmjournals.com/cgi/reprint/bmj.38189.67.4213.79v1>.

Access to courts and lawyers urgently needed in detention centres says BID

Following the death of two asylum seekers in detention in July and the release of reports on inspection of Dover and Haslar by HM Chief Inspector of Prisons, Bail for Immigration Detainees (BID) has called on the government to take immediate action to ensure that asylum seekers and migrants are not detained unnecessarily, or for long periods. BID has also called for detention cases to be automatically subject to an independent review by a court. Full press release '*Access to courts and lawyers urgently needed to diffuse tensions in immigration detention centres*', 29 July 2004, at

www.biduk.org/pdf/press/bid_press_release_access_to_courts_29_7_04.pdf.⁶

UK accepts CEDAW Optional Protocol to CEDAW

As part of the UK government review of human rights treaties, for the first time, the UK will accept an individual petition mechanism under the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW). This means that people in the UK will be able to take complaints about discrimination against women directly to the UN body that monitors the treaty. Source: Department for Constitutional Affairs, UK boost for Human Rights', 22 July 2004 at

⁶ The inspection reports can be found at: Dover Immigration Removal Centre - 01-05 March 04 www.homeoffice.gov.uk/docs3/ircdover04.pdf. Haslar Immigration Removal Centre - 29-31 March 04 www.homeoffice.gov.uk/docs3/irchaslar04.pdf.

www.gnn.gov.uk/Content/Detail.asp?ReleaseID=124322

related information The UN Committee on the Elimination of Discrimination Against Women (CEDAW) held its 31st session in July, to formulate its response to states' submissions on their compliance with the anti-discrimination treaty. Country reports to be considered in the session were Angola, Argentina, Bangladesh, Dominican Republic, Equatorial Guinea, Latvia, Malta and Spain. Reports of the committee on previous country submissions, which provide information on the UN's view of women's rights in the country and recommendations for change, are available on the CEDAW website at www.un.org/womenwatch/daw/cedaw/index.html.⁷

RWRP news

Greater Manchester Run for RWRP

Many many thanks to Karen McCarthy and Karen Newcombe who raised over £290.00 by running the Greater Manchester Run on behalf of the Refugee Women's Resource Project at Asylum Aid.



UK events & projects

⁷ UN News Service, www.un.org/news 7 July 2004

Conference: From policy to practice: making sense of the Asylum and Immigration Act 2004

Tuesday 14 September, London and Friday 17 September, Sheffield. For further information of the conferences and to book, download a conference flyer, (PDF) at

www.refugeecouncil.org.uk/downloads/refugee_council/conference/ai_act_2004.pdf. Full rate £295 (central government/business); reduced rate £245 (public/educational body/local government); supported rate £100 (voluntary organisation). More details: www.refugeecouncil.org.uk/refugeecouncil/training/conferences.htm.

UK courses

New courses for Refugee Women organised by Refugee Women's Association

1. Course for refugee women nurses and midwives; preparation for work 6 - 16 September, 9.45am-2.15pm Mon-Thurs at Refugee Women's Association, Print House, 18 Ashwin Street, London E8. This course covers all you need to know to prepare for work as a nurse or midwife in the UK from registering with the Nursing and Midwifery Council, learning about schemes to support you into work, confidence building, CV writing, application forms and interview skills. Throughout the course workshops will be held by NHS professionals to guide you in your career in the UK. The registration day for this course is 2 September 2004 at 10.30am at Refugee Women's Association.

2. Two accelerated English courses This is a 12 week intensive English course designed for professional refugee women. It includes two hours of IT each week and skills for work, alongside accelerated English teaching. Students can take a Pitman qualification at the end of the course. The registration days for this course are: Tuesday 7 September 2004 at 10.30am at: CanalSide House, 383 Ladbroke Grove, London W10 5AA; Thursday 9 September 2004 at 10.30am at: African Women's Welfare Group, 594 High Road, Tottenham, London N17 9TA.

Note that all courses are free of charge, travel expenses are paid and contributions to childcare or a crèche is provided. Both these courses are very popular so it is advisable to book soon! If you have any clients or friends who are interested please ask them to contact Lucy on 020 7923 2412 or email lucy@refugeewomen.org.uk.

Refugee Women into Leadership

Mosaada Centre for single women in London is organising 3 residential weekend courses which provide leadership training, coaching and consultation to refugee women seeking to effect change within their community and professional organisations. Residential dates are: 10-12 Sep, 26-28 Nov 2004 and 25-27 Feb 2005. Contact: Brenda Anthony on 020 7247 7111 or email brenda@mosaada.org.uk.

English and Childcare training for refugee women in Redbridge, Barking and Dagenham

The Lifeline Community Project in Dagenham has received almost £50,000 from the Home Office as part of a nationwide initiative to help refugees contribute to their local communities.⁸ The project aims to enable women in Redbridge, Barking and Dagenham to find employment by teaching them English and helping them achieve recognised childcare qualifications. About 30 women will be guided into full-time employment after graduation. For more information or if you are interested, please contact Laura Crosby on 020 8597 2900 or email learning@lifelinenetwork.org.

Introductory Course on Counselling Refugees

The Refugee Therapy Centre (RTC) is organising this course which will run from October 2004 to July 2005. It is aimed at young refugee volunteers and workers from refugee community organisations who have some interest in mental health and would like to help members in their community. Contact RTC on 020 7272 2565/4231 for more information.

Benefits and Support for People Subject to Immigration Control

This two day course (14-15 Sep 2004) covers the main forms of financial support available to those defined as a 'person subject to immigration control' (PSIC). The course focuses on how benefit entitlement is restricted for PSIC and who can still get benefits. It will also

⁸ Source: edited from 'Employment lifeline for refugee women', in *Barking and Dagenham Recorder*, 05 August 2004 at www.bdrecorder.co.uk/content/barkinganddagenham/news/, circulated by www.asylumpolicy.info.

cover the main residence tests that affect people coming from abroad. For those not entitled to benefits, the course looks at alternative forms of state support that may be available from the National Asylum Support Service (NASS) and local authorities. This course is suitable for advisers helping people who are 'subject to immigration control' (including asylum seekers), and who have a working knowledge of the benefits system.

The aim of the course is to improve the ability of participants to advise PSIC on the financial support available to them. Level: Intermediate (CPD Hours: 10). For details contact LASA on 020 7 377 2748 or email info@lasa.org.uk.

International news

Sexual violence against women and girls in conflict and post-conflict zones

As a new report by Amnesty International exposes the use of rape as a weapon of war in Darfur, western Sudan,⁹ abduction by armed groups and rape and sexual abuse of women in Democratic Republic of Congo is reported to be continuing amid a crisis still engulfing the eastern parts of the country. All groups are responsible for abuses against women and girls according to the United Nations Office for

⁹ See Amnesty International, 'Darfur: Rape as a weapon of war: sexual violence and its consequences', 19 July 2004 at <http://web.amnesty.org/library/index/engafsr540762004>.

the Co-ordination of Humanitarian Affairs (OCHA).¹⁰

Officers from the International Criminal Court arrived in the country at the end of July to start an investigation into alleged serious violations in international law since 2002. The ICC Chief Prosecutor is looking into possible links between the commission of these crimes and European, Asian and US businesses.¹¹

High levels of sexual violence in Liberian Refugee camps were also reported by the US based organisation Women's Commission for Refugee Women and Children has reported after their recent visit on the hardship suffered by women in Liberia.

The civil war ended in August 2003 but 300,000 people are still internally displaced and another 360,000 are in refugee camps in neighbouring countries. 80 per cent of these are women and children. High levels of rape and sexual violence have been reported from within the camps and survivors have difficulty accessing medical treatment and counselling. The Women's Commission is backing local efforts to make changes in the judicial system where perpetrators of rape often remain unpunished due to ineffective laws.

South Africa heart of complex trafficking routes

A conference on trafficking in the region held in South Africa in June has heard how the country is the centre of a complex network of trafficking routes and systems. Women and children are recruited from Mozambique, Angola, Malawi, Thailand, China, Eastern Europe and even as far afield as the East Asian city of Macau by organised criminals, businesswomen, sex tourists and refugees and sold into the sex trade in Africa and Europe, forced 'marriage' and, in the case of children, to paedophile rings. The International Organisation for Migration (www.iom.int) has launched a counter-trafficking initiative in the region to support victims.¹²

Anti-trafficking law in Tajikistan awaits final approval

The Tajik parliament has given initial approval to an anti-trafficking law, the first in Central Asia. The new law, which should receive final approval in September this year, covers prevention, assistance to and re-integration of victims, and prosecution of perpetrators. It has been welcomed by the International Organisation for Migration (IOM) which has been studying trafficking in the region and working in co-operation with the Tajik government.¹³

Afghanistan: 40% of voters are women

¹⁰ OCHA, 'Humanitarian aid disrupted in Democratic Republic of Congo', 28 June 2004, at <http://ochaonline.un.org/DocView.asp?DocID=1238>

¹¹ UN News Centre, 'International Criminal Court arrives in DR Congo to start probe, UN says', 27 July 2004, at <http://www.un.org/apps/news/story.asp?NewsID=11480&Cr=democratic&Cr1=congo>

¹² IRIN News, 23 June 2004, 'South Africa regional centre for human trafficking', at www.irinnews.org/report.asp?ReportID=41837.

¹³ IRIN News, 6 July 2004, 'Tajikistan: IOM welcomes new law to combat human trafficking', at [http://www.irinnews.org/report.asp?ReportID=42029&SelectRegion=Central Asia&SelectCountry=TAJIKISTAN](http://www.irinnews.org/report.asp?ReportID=42029&SelectRegion=Central%20Asia&SelectCountry=TAJIKISTAN)

In an update to our previous report, another female electoral worker has been killed in Afghanistan after the vehicle she was in with 4 other electoral workers near Jalalabad was hit by an explosive device. The other occupants were injured.¹⁴ Voters have continued to register to vote in the upcoming elections despite threats to security. Almost 4 out of 5 of those eligible had registered up to 22 July, of which approximately 40% were women, with a higher proportion of women registering in the north compared to only 20% in the south of the country.¹⁵

In a related development, the medical charity Medecins Sans Frontieres (MSF) has decided 'with outrage and bitterness' to close down all its medical programmes in the country after 24 years due to fears for staff safety after 5 workers were shot dead after an ambush of their clearly marked vehicle in June. A Taliban spokesperson claimed responsibility for the murders. MSF states that the authorities have not done enough to pursue the perpetrators of the attack or safeguard aid workers in their territory.¹⁶

new publications

international

¹⁴ UN News Centre, July 8 2004, at <http://www0.un.org/apps/news/story.asp?NewsID=11280&Cr=afghanistan&Cr1=>

¹⁵ UN News Centre, 22 July 2004, at www0.un.org/apps/news/story.asp?NewsID=11437&Cr=afghan&Cr1=

¹⁶ MSF, 'MSF pulls out of Afghanistan', 28 July 2004, at www.msf.org.

World Organisation Against Torture examines violence against women in 10 countries worldwide

The publication '*Violence Against Women for the protection and the promotion of the human rights of women 10 reports / year 2003*' (July 2004) is a compilation of 10 country reports that have been presented to the five main human rights UN treaty bodies: it examines violence against women in Bangladesh, Brazil, Cameroon, Colombia, Eritrea, Estonia, Mali, Russia, Turkey, and the United Kingdom.

Each country report is broken down in headings including general observations on the status of women, violence against girls in the family, violence against women in the community and violence against women perpetrated by the state. For more details and copies of the report, see:

www.omct.org/base.cfm?page=article&num=4963&consol=close&kwrd=OMCT.

Iranian women subject to unequal judicial rights and treatment that amounts to torture

A new report published by the International Federation of Human Rights assessing the human rights situation in Iran (July 2004), notes that '*women do not enjoy the same rights as men within the judicial process*' and recalls that '*in August 2003, the legislation passed by the outgoing parliament ratifying the CEDAW was rejected by the Council of Guardians.*'

The report quotes the UN Special Rapporteur on violence against women's

own report, released in March 2004, according to which:

*'women [in Iran] face discrimination in the criminal justice system and are subjected to forms of punishment, such as stoning, amputation and blinding, which amount to torture, forced marriages, high levels of domestic violence and sexual violence at the hands of gangs and organized crime rings. (...) The Special Rapporteur expressed particular concern about the reported involvement of senior State and religious officials in these crimes, and about allegations of continued torture and sexual abuse of women prisoners.'*¹⁷

Gender inequality fuels HIV infection says UN report

HIV infection rates are alarmingly high, especially among young women, in Southern Africa. A new report by the United Nations Secretary General's Task Force on Women, Girls and HIV/AIDS in Southern Africa makes very clear the links between women's and girls' position in society and their vulnerability to HIV infection: 'many women and girls cannot negotiate safer sex or turn down unwanted sex'. The traditional 'abc' approach of preventing infection – abstain, be faithful and use a condom – is not appropriate for girls and women due to their lack of rights and choices around sexual relations.

¹⁷ The report covers other topics such as civil rights and political freedoms, the judicial system, the prison system and torture in Iran. A copy can be found at: www.fidh.org/IMG/pdf/ir_ue072004a.pdf.

The report also shows that HIV/AIDS exacerbates women's poverty and inequality because they have to do more domestic labour as they care for their sick, dying and orphaned relatives or friends. The task force has highlighted six areas where work can be done to address these complex problems: prevention by looking at the prevalence of older men having sex with younger girls; keeping girls in school; protecting girls and women from sexual violence; improving women's property and inheritance rights; improving state support to care-givers; and removing barriers to treatment for women.¹⁸

Comparative Report on Rape, Sexual Violence and HIV¹⁹

Women's Equity in Access to Care & Treatment (WE-ACT) has released a report based on comparative case studies of sexual violence in Sudan, Uganda, Rwanda, Kenya and DR of Congo.²⁰ WE-ACT was founded in 2003 with a primary focus to collaborate with grassroots women's and girls' networks in resource-poor settings, especially HIV-positive groups, in an effort to help them develop proactive strategies to gain accelerated access to HIV education and services.

¹⁸ *Facing the future together: Report of the United Nations Secretary-General's Task Force on Women, Girls and HIV/AIDS in Southern Africa*, available at Southern African Regional Poverty Network, www.sarpn.org.za/documents/d0000839/index.php

¹⁹ Source:

http://okrasoup.typepad.com/black_looks/.

²⁰ WE-ACT was founded in 2003 with a primary focus to collaborate with grassroots women's and girls' networks in resource-poor settings, especially HIV-positive groups, in an effort to help them develop proactive strategies to gain accelerated access to HIV education and services.

According to WE-ACT, the systematic use of rape as a weapon of war in African conflict zones has created a humanitarian crisis for tens of thousands of women and girls and threatens to increase the spread of AIDS in the region. The country reports 'HIV Women's Treatment Access Report Card July 2004' can be individually downloaded in PDF from www.we-actx.org/.

Sex, Love and Homophobia: Lesbian, Gay, Bisexual and Transgender Lives

is Amnesty International (UK)'s new book about the lives of lesbian, gay, bisexual, and transgender people around the world. The book features a foreword by renowned human rights activist Archbishop Desmond Tutu. It is available from all good bookshops (ISBN 1 873328 57 5, at £9.99). Alternatively quote product code PB273 and order direct from Amnesty International UK, PO Box 4, Rugby, Warwickshire CV21 1RH. Telephone 01788 545553.

Child marriage in Afghanistan

Medica Mondiale, a German charity working on violence against women, has published a report on child marriage in Afghanistan, which provides recent information on traditional views of marriage, current marriage laws, international standards, reports of Medica Mondiale's psychologists and gynaecologists, opinions of Afghan experts and authorities, and data from prisons, schools, and hospitals. The report is available at

http://www.medicamondiale.org/html/waswirtun/in/ind_afghanistan_e.html

Future Forsaken Abuses Against Children Affected by HIV/AIDS in India

This 209-page report documents how many doctors refuse to treat or even touch HIV-positive children. Some schools expel or segregate children because they or their parents are HIV-positive. Many orphanages and other residential institutions reject HIV-positive children or deny that they house them. Children from families affected by AIDS may be denied an education, pushed onto the street, forced into the worst forms of child labor, or otherwise exploited, all of which puts them at greater risk of contracting HIV.

A copy of the report can be found at: <http://hrw.org/reports/2004/india0704/>. Source: Human Rights Watch Weekly Digest, July 29, 2004.

Women's group calls for greater protection of war-affected children in Uganda

In a report, entitled, '*No Safe Place to Call Home: Child and Adolescent Night Commuters in Northern Uganda*', the Women's Commission for Refugee Women and Children (WCRWC), has called on the Ugandan government and the international community to ensure greater protection for children in the war-affected north.²¹ It is estimated that the number of abducted children

²¹ Source: Integrated Regional Information Network, Kampala, 21 July.

has risen from 12,000 children in June 2002, to at least 30,000 by May 2004. An estimated 50,000 'night commuters', mostly children and women, leave their rural area each night for safer town centres. The report is available at: http://www.womenscommission.org/pdf/ug_nightcom.pdf

UN reports on refugee trends

The report '2003 Global Refugee Trends' is now available from the UNHCR website at www.unhcr.ch/statistics. The report contains comprehensive data on population categories of concern to UNHCR (asylum-seekers, refugees and others), in more than 150 countries. In addition, key population indicators are provided for more than 700 refugee locations (camps, urban centres).

Also available on the same site are two reports on refugee trends and trends in refugee status determination in 70, mostly developing, countries, from 1 January - 31 March 2004.

online resources

international

On-line database on availability of medical treatment

In response to the many requests they have received for information on health treatment available in countries of origin of asylum seekers and others, Medecins Sans Frontieres has set up a free database of medical information on countries in which they work around the world. To request information, go to http://www.msf.be/fr/terrain/ithaca_en.htm and complete the online form, after

which any information available will be sent.

New Online Bulletin: International Human Rights Advocacy

The first edition of the EHRAC bulletin, produced by the European Human Rights Advocacy Centre (EHRAC) at London Metropolitan University working in partnership with the Moscow-based NGO, Memorial, one of the leading Russian human rights organisations is now available on-line. The EHRAC Bulletin will be published twice a year and is intended to provide NGOs and lawyers with information about recent developments in the human rights field which have significance for Russia. Read the bulletin at:

www.statewatch.org/news/2004/jul/ehrac-bulletin.pdf.

Source: Statewatch news, 21/07/2004.

notice board

Asylum Aid advice line number is 0207 247 8741, Monday and Tuesday 2-4.30pm, Thursday 10-12.30pm (Closed on Wednesday and Friday).

Please send any information that you would like to see published in our next bulletin by 20 August 2004 (see email or postal address on back cover).

women's asylum news

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