

# women's asylum news

refugee women's resource project @ asylumaid

Issue number 81  
March 2009

## In this issue

Leading article: New Judgement: Should civilians be granted international protection in armed conflicts?

p.1-3

RWRP Update: Revisions of EU Directives

p.3

Significant Legal Case: Refugee Family Union for Naturalised British Citizens?

p.4

Sector Update

p.4-5

UK Events, Training and Conferences

p.6

UK news

p.7-9

International news

p.9-14

New Publications

p.14-15

If you want to subscribe to this free bulletin, please send your details to: [Claireb@asylumaid.org.uk](mailto:Claireb@asylumaid.org.uk).

All RWRP/ Asylum Aid publications are available at: [www.asylumaid.org.uk](http://www.asylumaid.org.uk)

Please forward any information that you would like to include in the next edition of WAN to [Claireb@asylumaid.org.uk](mailto:Claireb@asylumaid.org.uk) by the 9<sup>th</sup> April 2009.

**New Judgement: Should civilians be granted international protection from the risks to their life or person in armed conflicts?**

**The European Court of Justice's decision in: Elgafaji v Staatssecretaris van Justitie (C-465/07)**

*"The plight of persons who flee armed conflicts affronts our common humanity. But when such persons claim asylum the answer given by host states has often been that merely being a victim of armed conflict does not make a person a refugee.... Claims based on human rights, Article 3 ECHR in particular, have often met with a similar negative response."* (Asylum and Immigration Tribunal, KH (Iraq) (Article 15(c) Qualification Directive) Iraq CG [2008] UKAIT 00023)

Last March, in a test case about a civilian who was fleeing the civil war in Iraq, the UK's Asylum and Immigration Tribunal identified a gap that can exist in the international protection regime for asylum seekers. On 17 February 2009, in a groundbreaking judgment, the European Court of Justice held that a provision of European Community law may help to close that gap. The decision may have far-reaching consequences across almost all European Union member states. **It may prove to be very important for women who are particularly at risk of harm in armed conflicts.**

The European Union has developed common minimum standards in a number of areas relating to asylum. The minimum standards are set out in legally binding directives. One of these, commonly known as the Qualification Directive, sets out the minimum requirements for the way in which the Refugee Convention should be applied. It also sets out the criteria for identifying those who are not entitled to refugee status but should, nonetheless, be granted "*subsidiary protection*". There were significant omissions from this legal regime. In particular, international protection is not given under the Directive to those who are excluded from the Refugee Convention but who are protected against removal to their country of origin to face torture or inhuman or degrading treatment by Article 3 of European Convention on Human Rights. However, Article 15 (c) of the Directive extended international protection to civilians fleeing armed conflict who have not been guaranteed protection under the Refugee Convention or the European Convention on Human Rights.

Since October 2006, when member states were supposed to implement the Qualification Directive in their national law, courts and tribunals across the member states have made decisions applying the ambiguous wording of Article 15 (c) of the Directive in different ways. Taken with other provisions of the Directive, it mandates that an applicant who can show substantial grounds for believing that there is a "*serious and individual threat to a civilian's life or person by reason of indiscriminate violence in situations of international or internal armed conflict*" is at risk of serious harm in their country of origin. If the applicant is also able to show that she meets the other elements demanded by the Qualification Directive, for example that she cannot be expected to internally relocate within their country of origin, then she will be entitled to subsidiary protection.

However various questions remained unanswered. What was the relationship between Article 15(c) and those protected from return to torture or inhuman and degrading treatment as a result of Article 15(b)? How could the apparent contradiction in the provision that required an applicant to show an *individual* threat of *indiscriminate violence* be resolved? This last question was particularly pressing because of a provision in the recital to the Directive, appeared to limit the numbers of asylum seekers who could benefit from the provision. It states:

*"Risks to which a population of a country or a section of the population is generally exposed do normally not create in themselves an individual threat which would qualify as serious harm."*

This provision could impact adversely on the claims of women asylum seekers fleeing armed conflict, because they could be considered a "*section of the population*". In order to clarify some of the ambiguities of interpretation, the Council of State in the Netherlands referred two questions to the European Court of Justice in Luxembourg. This is the usual process for obtaining authoritative rulings on the interpretation of ambiguous points of European Community law for the Courts of member states to apply in individual cases.

The European Court held that Article 15(c), read with other provisions of the Directive, provided additional protection to the prohibition on return to torture, inhuman or degrading treatment. It noted that only a "*threat to a civilian's life or person*" had to be shown rather than the risk of a specific act of violence such as torture. It noted that such a "*threat is inherent in a general situation of armed conflict*" and may apply to persons regardless of their circumstances. In an exceptional situation, the general conditions in the area or country in general may establish sufficient grounds

to prove that the applicant is individually at risk. However, *"the more the applicant is able to show that he is specifically affected by reason of factors particular to his personal circumstances, the lower the level of indiscriminate violence required for him to be eligible for subsidiary protection"*.

This judgment will compel the UK Border Agency to reconsider its policy in respect of civilians fleeing armed conflict. The current policy places particular emphasis on the need for an applicant to show that she is particularly at risk. Moreover, the European Court's approach is different and probably more progressive than the decisions of the Asylum and Immigration Tribunal on Article 15(c). It may result in the more favourable treatment of the claims of women who face aggravated risks of gender-related violence in situations of armed conflicts.

That said, Jacques Barrot, the European Commissioner for Justice and Home Affairs, stated on 27 February that the ruling *"would have only a limited effect in practice"*. UNHCR considers the judgment to be *"generally positive"* although has expressed concern that it will be difficult for applicants to demonstrate the potentially high level of indiscriminate violence in order to benefit from the provision. It has noted the importance of up to date and precise background in adjudicating claims under this provision.

The upshot of the decision is that the question is no longer whether Article 15(c) provides more protection for civilians fearing return to situations of armed conflict; it clearly does. Rather, to evaluate the decision's effect, we will have to wait to see how many more people fleeing warzones will be granted protection not just in the UK, but across the EU.

### RWRP Update

#### Revision of EU Directives

RWRP has produced comments for the European Commission as part of their revision of the EU Qualification and Procedures Directives. These directives aim to harmonise the approach to asylum procedures throughout the European Union and to provide minimum standards to Member States.

RWRP's paper focused on the need for Member States to take account of the particular experiences and problems faced by female asylum seekers by making the Directives gender neutral. The paper highlighted the fact that the particular problems concerning women asylum-seekers are not dealt with adequately within the Directives. Amendments were proposed that would ensure certain fundamental guarantees were available to women, such as the recognition of the existence of gender-specific persecution and the need to acknowledge that women have culturally and socially imposed limitations on their ability to express themselves. It was proposed that measures are implemented to provide all-female environments for an interview and to provide appropriate access to child care. This is to ensure that children are not present when women are providing individual accounts of persecution and rape.

The paper was used in discussions about the review of the Directives at two meetings in Brussels in early 2009 where Asylum Aid was represented. The Commission will propose revisions for Member States to consider adopting in April.

For this paper see:

[http://www.asylumaid.org.uk/data/files/publications/92/AA\\_comments\\_on\\_EU\\_Qual](http://www.asylumaid.org.uk/data/files/publications/92/AA_comments_on_EU_Qual)

[ification and Procedures Directives Jan 2009.pdf](#)

See also: '*Asylum is Not Gender Neutral*' publication':

[http://www.asylumaid.org.uk/data/files/publications/70/Asylum\\_is\\_not\\_gender\\_neutral.pdf](http://www.asylumaid.org.uk/data/files/publications/70/Asylum_is_not_gender_neutral.pdf)

### Significant Legal Case

#### Refugee Family Union for Naturalised British Citizens?

In recent cases, the Asylum and Immigration Tribunal and the Court of Appeal have taken differing views as to whether a refugee who has become naturalised as a British citizen can still make an application for refugee family reunion, under the more generous immigration rules that apply in those cases. The advantages of making an application under those provisions is that, unlike in other applications to have family members come to join a sponsor in the UK, there is no requirement for the sponsor to be able to support and accommodate those seeking leave to enter and remain without additional recourse to public funds. In practice, the fact that a refugee is in receipt of welfare benefits will never be a bar on her being reunited with her family members.

In **YS & YY (Ethiopia)** [2008] UKAIT 00093, the Tribunal held that it was possible to succeed in an application for refugee family reunion even though the sponsor had become naturalised as a British citizen.

In **DL (DRC) v Entry Clearance Officer, Pretoria** [2008] EWCA Civ 1420, the same issue came before the Court of Appeal in two linked cases where entry clearance had been refused because the

applicant was no longer a refugee, having naturalised as a British citizen.

The Court of Appeal held that the Immigration Rules should be read in order to reflect the Refugee Convention. In addition to setting out when a person qualifies as a refugee, the Convention also sets out when refugee status may either cease – voluntarily or otherwise. Article 1 C (3) clearly states that once a refugee obtains a new nationality and enjoys all the same rights as other citizens, including the protection of that State, she will cease to be considered a refugee. Consequently, once a refugee has successfully naturalised as a British Citizen, she has lost the opportunity to benefit from the more generous refugee family reunion in the Immigration Rules. This decision, overrules the previous Asylum and Immigration Tribunal caselaw.

### Sector Update

#### Call For Better Asylum Rights for Women in Wales

Oxfam Cymru, the Welsh Refugee Council and Displaced People in Action launched the charter for the rights of women seeking asylum on the 9<sup>th</sup> March 2009 in Wales.

The charter includes a range of practical recommendations that would make the treatment of women asylum-seekers and refugees in Wales fairer. For example, childcare is not routinely provided at asylum interviews, so many women have felt unable to fully recount their horrific experiences in front of their children, leading to their asylum claims being rejected. In addition, women are not consistently offered the opportunity to be interviewed by a woman or use a female interpreter.

Mike Lewis, Welsh Refugee Council Chief Executive said: *"All asylum seekers have a right to be treated with fairness, dignity and respect. But that doesn't mean that male and female asylum seekers should be treated the same. Same doesn't mean equal and we want to see that women are treated with fairness when they claim asylum."*

The agencies recognise that the United Kingdom Border Agency (UKBA) in Wales has taken on board recent recommendations to provide better services for women when they are faced with the ordeal of reporting their claim for asylum, such as providing a female interviewer.

Sian Summers, Displaced People in Action, said, *"The UK Border Agency in Wales are ahead in providing services for women than their counterparts in England and we should be proud of that. However, there is still a long way to go before the needs of women are met."*

The Charter provides a framework for connecting and coordinating all the work that is being done to make a fairer system for women throughout the end-to-end asylum process.

Alan Bull, Oxfam Cymru, says, *"Oxfam is delighted to support the launch of the charter for refugee and asylum-seeking women in Wales. Through our Women Seeking Sanctuary in Wales project, we come into contact with hundreds of refugee women who've told us of the lack of sensitivity they experience from the immigration authorities in the UK. One woman experienced abduction and abuse in Bulawayo, Zimbabwe and was told to relocate to Harare, which is a hundred and fifty miles away. It's time to think more carefully about how we support women fleeing violence and abuse."*

Oxfam Cymru, Welsh Refugee Council and Displaced People in action are calling on

members of Welsh civil society to endorse the charter.

----

### **Maternity Rights for Asylum Seekers**

Maternity Action and Medact have released a series of information sheets on maternity rights for asylum seekers and other migrant women.

The information sheets cover UK Border Agency support, benefits, tax credits, entitlement to free NHS healthcare, and employment rights. They also have a list of useful contacts. There are information sheets for asylum seekers, refugees, refused asylum seekers and undocumented migrant women, amongst others.

The information sheets provide a useful summary of maternity-related entitlements, which will assist the many community workers, health workers and advisors who do not work on a day-to-day basis with pregnant women or with asylum seeking women. Many workers are unaware that refused asylum seekers are entitled to support in the late stages of pregnancy and shortly after the birth, or that asylum seekers are entitled to additional payments during pregnancy and their child's early years.

Maternity Action is a newly established national voluntary organisation working on maternity and equalities. Maternity Action has a strong interest in asylum seeking women and is active in campaigns on entitlement to free NHS care for refused asylum seekers. Maternity Action also work on issues facing other vulnerable women, including poverty, health access, and employment rights.

Maternity Action provide information and resources on maternity rights aimed at individual women, community workers and health workers and also run training courses. The work of Maternity Action

feeds into the policy process and will actively campaign on the issues affecting vulnerable pregnant women, new mothers and their families.

The information sheets are available on the Maternity Action website ([www.maternityaction.org.uk](http://www.maternityaction.org.uk)) and Medact website ([www.medact.org](http://www.medact.org)). These are free of charge.

### UK Events and Conferences

#### **No! The Rape Documentary 15<sup>th</sup> March, 4pm ICA, London**

This film is being screened as part of International Women's Month. This US documentary looks at the realities of rape within African-American communities, through intimate testimonies from survivors, with commentary, archive footage, performance poetry and dance.

Winner of the Audience Choice Award at the San Diego Women Film Festival, and the Best Documentary Award at the India International Women's Film Festival

For further information and to book tickets see:

<http://www.ica.org.uk/No%21%20The%20ORape%20Documentary+19123.twl>

----

#### **Safeguarding Victims: Prevention and Protection in Practice 'Forced Marriage' and 'Honour Crimes'**

**17<sup>th</sup> March 2009  
City Hall, Cardiff, Wales**

This International Women's Day National Conference is aimed at public and voluntary sector organisations. Attending delegates will gain awareness and

knowledge from professionals who have practical experience of the Forced Marriage (Civil Protection) Act 2007 to safeguard victims.

Confirmed speakers include: Nazir Afzal OBE, Director Crown Prosecution Service; Anne Marie Hutchinson OBE, Dawson Cornwall Solicitors; Sarah Russell, Head of Forced Marriage Unit, Foreign and Commonwealth Office and Ratna Dutt OBE, Chief Executive Race Equality Foundation.

The Henna Foundation will also launch a National on-line Forced Marriage and 'Honour' Based Violence Directory and Toolkit as part of a project funded by the Equality and Human Rights Commission (EHRC).

For further information to register for the FREE event email:

[hbvconference@cardiff.gov.uk](mailto:hbvconference@cardiff.gov.uk)

Or call the Henna Foundation:

(029) 2049 8600 / (029) 2049 6920

----

#### **Ashiana network training Advanced Domestic Violence**

**30<sup>th</sup> March 2009, London**

This session is aimed at developing a more advanced knowledge of domestic violence. It is recommended that participants have a basic understanding of domestic violence before attending this course.

The session will cover:

- An overview of basic domestic violence
- Domestic violence and children (incorporating the domestic violence guidelines)
- Crime and Disorder Act
- Non-Molestation and Occupancy Order
- Risk Assessments
- Supporting women with multiple

needs

For more information and booking details email: [info@ashiana.org.uk](mailto:info@ashiana.org.uk)

Or call: 020 8539 0427  
Voluntary Sector cost - £80  
Places are limited please contact asap.

### UK News

#### Poverty for women asylum seekers

A woman asylum seeker who was tortured in the Democratic Republic of Congo has talked about her experiences during a BBC current affairs show 'Week In Week Out'. The 29 year old woman talked openly about being tortured as a political prisoner in the DRC and then discussed how she has been left destitute in the UK. As her asylum claim was refused and she did not volunteer to return to the DRC she was forced into prostitution in order to support herself. She states:

*"When I had been refused asylum that was when everything really turned upside down. I did not have anyone here. When they stopped my support they threw me out of the house and I did not have anyone to give me money or food. I just became homeless in this country. In this situation I did not have any alternative but going to the pubs to look for someone who would go with me to give me some money to survive. Any man who would go with me would give me £5 or £10. I didn't have a choice. I was doing that with crying in my heart. I was crying inside but there was no other way to get some money."*

A fresh claim has recently been submitted and the woman now has some accommodation and access to support, however the interview highlights how many women asylum seekers are left

destitute, with prostitution as the only means to survive.

This news article which summarises the radio programme also includes a video 'Asylum rejects become nothing'. This 3 minute video tells the story of a Zimbabwean woman asylum seeker who was left destitute in Cardiff.

In contrast, a Home Office spokesperson for the programme states: *"Britain has a proud tradition of offering refuge to those who need our help. We consider every asylum application with the utmost care.... Those individuals whose cases have been concluded and who are denied the right to work have no legal right to remain in the UK and are expected to return home. There is no need for asylum seekers to be destitute. We provide measures that ensure that individuals are not destitute and work to ensure that all are treated with respect and humanity."*

For full article see:  
<http://news.bbc.co.uk/1/hi/wales/7906487.stm>

----

#### Iranian Lesbian granted refugee status

A lesbian asylum seeker from Iran has been granted international protection in the UK after a high profile four year campaign. The woman fled Iran after her partner was arrested and sentenced to death. If returned, she feared she would also face execution. Currently in Iran, lesbians found guilty of sexual relations face 100 lashes and a third of all cases face execution. Whilst in the UK, the asylum claim and subsequent appeal was refused and in August 2007, papers were issued for her return to Iran. It was during her journey to Heathrow airport that she learnt of a last minute reprieve in the legal case. Gay rights support groups,

MPs and the Independent newspaper lobbied for a reconsideration by the Home Secretary Jacqui Smith, which was agreed. Refugee status was granted after a judicial review.

Campaigners are lobbying the British Government to introduce a moratorium on returning gay and lesbian refugees to Iran. The UK Border Agency however does not believe granting blanket exemption is viable. A UKBA spokesman states: *"We consider each case on its individual merits and, whenever someone needs our protection, we grant it. We constantly monitor the human rights situation in countries like Iran and press for an end to abuses, but we do not believe that everyone claiming to be a homosexual from Iran is in need of international protection."*

For full article see:

<http://www.independent.co.uk/news/uk/home-news/asylum-for-lesbian-on-the-run-from-iran-1622991.html>

----

### **Ratifying trafficking convention not Enough**

The Immigration Advisory Service has published a press statement highlighting a series of concerns regarding a lack of safeguards in the application of the Trafficking Convention. Speaking at a Conference on Trafficking issues Keith Best, Chief Executive of IAS stated *"But strong words and rhetoric in themselves will not guarantee the safety of one victim of trafficking – we need to see how the relevant agencies will apply the provisions."* Best talked about a case where a woman who was trafficked gave evidence in a trial which resulted in her trafficker going to jail for 26 years. However in her own case, she was refused asylum and her appeal was dismissed on the grounds of credibility.

The Immigration Advisory Service accuses the Home Office of not dealing with trafficking cases in any special way, with insufficient liaison between the Home Office and the police. Greater understanding and sympathy is needed to appreciate the difficult position women are placing themselves in order to give evidence against their traffickers. In addition, cases where a women's evidence is considered to be 'beyond reasonable doubt' in criminal cases yet the same evidence is regarded as incredible in their asylum claim has to be avoided.

Best states: *"We ask the Government to make it clear how the Convention will be applied in practice. If, despite the fine words and intentions, there is no greater protection for victims then it will be to the eternal discredit of the Government. Unfortunately, this measure seems to have been victim to the same lack of analysis and assessment of human and financial resources necessary that we have seen in other ventures: there is no extra provision for legal aid to assist victims; the Government's view is that victims of trafficking merit no greater access to legal advice nor to lawyers who specialise in such cases beyond what is provided for any asylum seeker (yet such victims are often not asylum seekers when they are identified)".*

The Immigration Advisory Service call for a series of measures to be put in place including: for victims of trafficking to have access to a panel of specialist immigration advisors; greater sympathy by the UK Border Agency and greater clarity over the National Referral Mechanism (NRM). A number of practical issues of concern that the Immigration Advisory Service call upon the Government to address urgently are illustrated in the article.

For full article see:  
<http://ias.live.rss-hosting.co.uk/C2B/PressOffice/Display.asp?ID=430&Type=2>

----

### Asylum system puts women at risk

Jonathan Rayner writes in the Law Societies Law Gazette that British immigration policy is placing women asylum seekers at increased risk of further sexual assault. According to the Refugee Council, three quarters of women seeking asylum have been raped in their country of origin or in the UK. The interim findings from The Refugee Council's Vulnerable Women's Project reveal that 76% of the 153 women interviewed were experiencing 'trauma-related psychological distress', 15% had become pregnant from being raped and 20% had developed gynecological problems. The project also illustrates that many women's asylum claims are rejected and consequently women are left homeless and destitute. This situation creates further vulnerabilities for women who are susceptible to rape, abuse and often forced into prostitution.

Hani Zubeidi, an immigration solicitor states: *"rape is recognised under international law as a weapon of war, but not as torture: 'Under our asylum rules, victims of torture are not returned to the country where the torture took place. But rape is regarded as something that occurs indiscriminately and is not the government policy of the country where it happened. And so raped women can get sent back to the very last place they want to be."*

Similarly, RWRP's Debora Singer urged immigration lawyers to ensure the UK Border Agency follow their own gender guidelines.

For full article see:

<http://www.lawgazette.co.uk/news/asylum-laws-putting-women-risk>

### International News

#### Burkina Faso: Female Genital Mutilation on infants

Since 1996, the practice of female genital mutilation (FGM) has been prohibited in Burkina Faso and individuals found guilty face a 10 year prison sentence and US\$1500 fine. However, organisations and government agencies against FGM believe families continue to practice FGM despite the legislation. Since 1996 there has been an increase in the number of girls experiencing FGM under the age of five. Government statistics also reveal that in the first three months of 2008, 70 newborns were admitted to hospital nation-wide for emergency care after botched FGM operations.

Marie Rose Sawadogo from the government's National Committee Against FGM (known as CNLPE) states *"It is a perverse effect of our denunciation and awareness campaign that to avoid being caught they [circumcisers] turn to babies who can undergo FGM/C unnoticed."*

In 2008 non-profit agency 'Mwangaza Action' conducted a survey of 140 residents in the capital Ouagadougou. The findings revealed that the majority of respondents continued to take their young girls to villages or remote areas to ensure FGM is performed.

Although official figures indicate the overall prevalence of FGM for 15-49 year olds has been reduced nationally from 77% to 50% since the 1990s, CNLPE believe this reduction is not enough. Brigitte Yameogo from Mwangaza Action states: *"FGM is still a reality in Burkina Faso and populations strongly believe that*

*the practice is rooted in their traditional values...Though some traditional chiefs publicly denounce FGM, they still favour the practice in private."* Similarly, Sawadogo from CNLPE believes new strategies are needed to address the problems and to eliminate the practice of FGM especially on infants.

For full article see:

<http://www.irinnews.org/Report.aspx?ReportId=82600>

----

### **Kenya: Seeking Justice for Rape**

Women who were raped and gang raped during the election-related political violence in Kenya, are still seeking justice for crimes committed against them. For one woman who was brutally gang-raped a year ago, she is still recovering from her medical injuries sustained from the attack. She states *"The saddest part of the experience is that I don't know the rapists so I can't even say I am waiting for justice; they pushed my head under the bed and so many of them raped me until I fainted; when I came to, they had fled...Some of my children watched as I was raped; fortunately, the eldest girl fled through the window before they got hold of her."* It is feared hundreds of women in Kenya are in the same predicament. CARE International, an NGO responsible for a legal aid programme working with women and girls reveals only four prosecutions for the rape of women and girls have started and to date, no convictions have been recorded. Beatrice Spadacini, from CARE said *"Women who were raped did not immediately report this crime for fear of being stigmatised in their communities or chased out of their homes by angry husbands...There was also fear of reprisal from the perpetrators, many of whom are still out and about or are men in uniforms."*

The Federation for Women's Lawyers in Kenya estimate the over 3000 women were raped during the election-related violence. CARE, together with the Kenya Gender Commission and UN Development Fund for Women (UNIFEM) collected more than 300 testimonies from women raped during the violence. Of the 300 women's testimonies, 60 reported rapes were committed by members of the General Service Unit (GSU), a special force unit of the Kenyan military. Spadacini from CARE states: *"in the process of documenting rape cases, what becomes clear was that women and girls were often raped regardless of their ethnic background...Women of all ages and backgrounds were raped by angry men."* CARE and its local partners have established a referral network for reported rape cases and to ensure women receive legal assistance and psycho-social support.

For full article see:

<http://www.irinnews.org/Report.aspx?ReportId=83180>

----

### **India: Gang rape of woman highlights attitudinal divisions**

A recent alleged gang rape of a woman in Delhi, India, illustrates the attitudinal divisions regarding rape across Delhi. The incident occurred in an up-market suburb of Delhi, where a female student was attacked after she was seen in a car with a male friend. Eleven men from a rural village, on the edge of the suburb have been arrested. The police claim they have strong DNA evidence and mobile phone footage; however local villages have acted angrily and claim they are innocent. One villager states: *"we respect our women. But we have our traditions... Unmarried women in the village cannot travel unescorted or reveal their faces to men."* Similarly, another villager says: *"every*

*evening they drive up here in their vehicles and drink and have sex. What was that couple doing here? Why don't the police take action against them"?*

In contrast, women's rights groups and people in the city suburbs have expressed their shock at the situation and a lack of confidence in the system to deal with these issues. Some women have also voiced concerns that they no longer feel safe in Delihi as this case was one in a series of assaults against women in the capital

For full article see:

[http://news.bbc.co.uk/1/hi/world/south\\_asia/7858157.stm](http://news.bbc.co.uk/1/hi/world/south_asia/7858157.stm)

----

### **Jamaica: Human Rights Watch condemns homophobic outburst**

Human Rights Watch are calling upon the Jamaican Prime Minister Bruce Golding, to condemn recent Parliamentary comments against homosexuals and repeal the colonial law against "buggery" which criminalises homosexuality. In a recent Parliamentary debate Ernest Smith of the Jamaican Labor Party said *"homosexual activities have overtaken this country"* and describing homosexuals as *"abusive"* and *"violent"*. Smith is calling for a tightening of the "buggery" law and an outlawing of J- FLAG, the Jamaican Forum for Lesbian All- Sexuals and Gays'. According to Smith, *"How can you legitimize an organization that is formed for the purposes of committing criminal offenses?"*

Rebecca Schleifer, advocate for the Health and Human Rights Division of Human Rights Watch stated *"In a climate of violence where homophobia puts LGBT people's lives at risk, spewing such hatred is inexcusable...The prime minister should unequivocally condemn public figures who call for denying people their human rights."*

Human Rights watch have documented a series of violent attacks against LGBT people in Jamaica including a series of mob attacks where police have refused to intervene or have at times, joined in the attacks. In 2008, Human Rights Watch wrote twice to Prime Minister Golding regarding urgent concerns for the safety of LGBT people in Jamaica. One of the letters asked that *"We .. hope that your response to such violence will begin a dialogue with human rights groups working to end homophobic violence and abuse in Jamaica and strengthen efforts to protect all lesbian, gay, bisexual, and transgender Jamaicans against further such violence and abuse."* However, Prime Minister Golding has not spoken publically to defend the human rights of LGBT people in Jamaica. For Schleifer, the recent comments by Smith demonstrate *"how such laws can be used to threaten freedoms of association and expression, as well as the work of human rights defenders."*

For full article see:

<http://www.unhcr.org/refworld/docid/49a25d721a.html>

For Human Rights Watch reporting on Jamaica see:

<http://www.hrw.org/en/americas/jamaica>

----

### **Yemen: Child marriage laws in jeopardy**

The Parliament in Yemen has agreed to set the legal age for marriage at 17 however there are concerns that this decision will be repealed as it violates Sharia law. Horiah Mashour, deputy head of the National Women's Committee (NWC), a government body, states there is resistance to the amendment by some extremist MPs who believe Sharia does not set an age limit on marriage. Similarly,

MP, Abdulbari Dughaish states: *"Withdrawing the agreed decision on setting the marriage age at 17 is possible. The MPs who agreed on it might change their minds."*

This amendment was originally set in recognition that early marriage deprives girls of education and childhood experiences. The new law stipulated that girls under the age of 17 are not allowed to marry unless a judge agreed it was in the child's best interest. Horiah is also concerned that if the law is passed, without further education people will try and 'outwit' the legislation by not revealing the true age of child brides. She states that: *"Although a birth registration certificate is issued [by the government] for free, there are still people who won't get it at all. In this case, they can decide any age for the girl."*

In a recent study by the NWC and Sanaa University's Gender Development Research and Study Centre on early marriage 52 percent of 6,000 female respondents were married underage. Also, the International Centre for Research on Women (ICRW) ranked Yemen 13 out of 20 worst countries for the high prevalence of child marriage in their 2007 report.

For full article see:

<http://www.irinnews.org/Report.aspx?ReportId=83081>

For the International Centre for Research on Women (ICRW) research report 'New Insights on Preventing Child Marriage' see:

<http://www.icrw.org/docs/2007-new-insights-preventing-child-marriage.pdf>

----

### **Democratic Republic of Congo: Sexual Violence**

Within the last ten years hundreds and thousands of women and girls have been brutally raped in the DRC. In 2008 rebel groups signed a peace treaty however, thousands of women and girls continue to be raped in eastern DRC along the Rwandan and Ugandan borders. This area, known for its valuable minerals has seen escalated fighting since July 2008 and thousands of civilians have been forced to flee their homes. In light of continuing abuse against women and girls, UNICEF and the V-Day campaign are collaborating to raise awareness of the situation and suffering of women in DRC.

Ann Veneman, Head of Unicef states: *"Simple everyday tasks like gathering water, fetching water, expose these women and children to a great danger."* The joint initiative aims to develop a village for rape survivors in Bukavu, South Kivu, DRC. Dr. Denis Mukwege, director and founder of Panzi General Referral Hospital in Bukavu performs approximately 10 fistula operations a day and believes approximately 24,000 women have been treated in the hospital over the years. He states *"But sometimes it seems that ears are closed, and so we've been wondering: is it because these are women, and do we need men to start being killed so that other men will react?"* Mukwege calls for a greater judicial system to be in place to ensure women have access to justice to apprehend the rapists.

Eve Ensler, the founder of V-Day and 'The Vagina Monologues' playwright has visited eastern DRC and is convinced the situation there is the worst case of violence against women and children in the world today. She states *"I think we're still living in very patriarchic institution that hasn't come to understand the importance of women and the role of women in the world."*

For full article see:

<http://www.ipsnews.net/africa/nota.asp?idnews=45751>

For further information about the unicef campaign:

[http://www.unicef.org/infobycountry/drco\\_ngo\\_47997.html](http://www.unicef.org/infobycountry/drco_ngo_47997.html)

----

### **Iraq: Women's Silent Emergency**

A new survey in Iraq has revealed women endure *"insecurity, poverty and a lack of basic services"*. Oxfam International conducted the survey in collaboration with Iraqi women's NGO Al-Amali. Over 1700 women across five provinces in Baghdad participated. The survey illustrates how women's day-to-day lives and physical well-being is greatly affected by the on-going insecurity in Baghdad. 55% of respondents said they had been directly or indirectly victims of violence since the US led invasion in 2003. In addition, 76% of widows stated they had not received any government support which leads the survey to conclude that *"incomes have disappeared, poverty has deepened, (and) the Iraqi government has not been providing sufficient financial assistance to vulnerable groups, such as widows, and at-risk women are in need of humanitarian aid."*

The survey also highlighted several areas of concern relating to access to health for women, exposure to violence and schooling for their children. 40% of mothers stated their children were not going to school and 36% of women were head of their households for 'violence related reasons.' The report states: *"countless mothers, wives, widows and daughters of Iraq remain caught in the grip of a silent emergency...they are in urgent need of protection and – along with their families – are in desperate need of*

*regular access to affordable and quality basic services, and urgently require enhanced humanitarian and financial assistance."*

Hanaa Adward, head of Baghdad-based Al-Amal believes the government must immediately adopt an effective strategy for women to *"save the country's future generations."* She states: *"The Iraqi woman is still suffering from an acute and harsh situation and daily circumstances and marginalization in her own society...She is missing the minimum basics of life, whether she lives in the city or the countryside....We are determined to push for this strategy with all decision-makers in the government...If the government wants a healthy society, then it must start with the women."*

In February 2009, Nawal al-Samaraie resigned as the minister of Women's Affairs due to a lack of 'resources' to implement her plans to improve women's lives. She directly accused the government of 'ignoring an army of uneducated women, widows, victims of domestic violence and female internally displaced persons who were in direct need of assistance'. To date, the post has not been filled.

For full article see:

<http://www.irinnews.org/Report.aspx?ReportId=83361>

For Oxfam's *'In Her Own Words: Iraqi Women Talk About Their Greatest Concerns and Challenges'* survey see:

<http://www.oxfam.org/sites/www.oxfam.org/files/oxfam-in-her-own-words-iraqi-women-survey-08mar2009.pdf>

----

## The Trafficking of East Asian Women

A UN report has revealed that women from East Asia are found to have been trafficked in over 20 countries including South Africa. The UN Office of Drugs and Crimes (UNODC) believes *"Victims from this region, when compared with victims from other regions, tend to be shipped very, very far away."* The UN believe that the primary victims from East Asia are women and girls who are trafficked both around their country of origin and to other continents for sexual exploitation.

The UN Protocol Against Trafficking in Persons came into force in 2003 and since then, 80 per cent of countries surveyed have introduced specific legislation. However, the recent UNODC report believes there is a poor rate of enforcement with two out of five countries not recording a single trafficking conviction. The report also illustrates how gaps in data and information are hindering the work against trafficking and urgently need to be addressed.

For full article see:

<http://www.irinnews.org/Report.aspx?ReportId=82913>

For the UN *'Global report on the trafficking of persons'* see:

[http://www.unodc.org/documents/human-trafficking/Global\\_Report\\_on\\_TIP.pdf](http://www.unodc.org/documents/human-trafficking/Global_Report_on_TIP.pdf)

----

## New Publications – International

### ***'Workers in the Shadows: – Abuse and Exploitation of Child Domestic Workers in Indonesia'***

#### **Human Rights Watch February 2009**

This research explores the exploitation of girls as domestic workers in Indonesia. Human Rights Watch report that hundreds of thousands of young girls, some as young as 11 are employed in other people's households, *"hidden behind the locked doors of their employers' homes, isolated from their family and peers, and with little regulatory oversight by the government."* The report illustrates that many girls are forbidden from leaving their employers house, how employers have withheld or not paid the girls and some girls were physically and sexually abused by their employers or associates.

This report explores the current legislative framework and challenges the 'myths' associated with domestic work in Indonesia. Human Rights Watch argue the Indonesian government is doing little to prevent or stem the level of exploitation and abuse girls are exposed to and accuse the government of a *"pervasive attitude of denial"*. A series of recommendations are made to the Indonesian government including to the President, relevant ministries as well as the international community.

For full research report see:

[http://www.hrw.org/sites/default/files/reports/indonesia0209\\_webwcover.pdf](http://www.hrw.org/sites/default/files/reports/indonesia0209_webwcover.pdf)

----

### ***'Human Trafficking and the Effectiveness of Asylum Policies'***

**Jenny Monheim**

**German Working Paper in Law and Economics, Paper 3**

This research paper investigates the following question: *'are restrictive asylum policies effective given trafficking?'*

The paper explores how restrictive asylum policies affect asylum seekers and argues that such policies actually increase the number of asylum claims and refugees working in slave-like conditions. The paper critiques Governments' preoccupation with reducing the number of asylum seekers by introducing restrictive measures particularly around entry and border controls. The paper asserts that such measures force vulnerable people to use human smugglers and to be subjected to further exploitation. The paper discusses how this situation can result in more people being exposed to traffickers and their control, manipulation and also becoming indebted to them. In addition, once inside the 'host country' an individual's 'illegal status' can draw a person back to their traffickers or smugglers for further exploitative work.

The findings in the paper assert that restrictive policies can result in people most in need of receiving international protection actually being denied it. Moreover, restrictive asylum policies do not reduce the number of asylum applicants and will not achieve the Government's objectives.

For full research paper see:

<http://www.bepress.com/cgi/viewcontent.cgi?article=1221&context=gwp>

----

### ***'Action to combat gender-based human rights violations, including abduction of women and girls'***

**Council of Europe,  
Parliamentary Assembly  
Committee on Equal Opportunities  
for Women and Men, Doc. 11784**

This report highlights grave concerns that a large proportion of women across Europe are vulnerable to forced marriage, being circumcised or enslaved due to tradition, cultural practices or religious codes. The Council of Europe state women and girls, particularly from immigrant communities are at risk of violence and abuse because of their gender. The report confirms such practices constitute serious violations against human rights and should be condemned. Member states have a duty under the European Convention on Human Rights to take action and protect victims.

The report calls upon the Assembly to invite member states to develop national policies to protect victims, prevent violations and punish perpetrators. The report also calls upon greater international coordination to strengthen women's rights and fight against gender based violence.

For full research report see:

<http://www.unhcr.org/refworld/docid/49997bba6.html>

# women's asylum news

Produced by RWRP (for more information on this issue, please contact: Claire Bennett)  
Asylum Aid, Club Union House  
253-254 Upper Street  
London N1 1RY  
Tel: 020 7354 9631  
Fax: 020 7354 5620  
Email: [Claireb@asylumaid.org.uk](mailto:Claireb@asylumaid.org.uk)  
Website: [www.asylumaid.org.uk](http://www.asylumaid.org.uk)

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. We rely on the generosity of individuals to help us continue our work. Your support would be greatly appreciated.**

**A gift of just £5 each month could support our free legal advice line.**

Name \_\_\_\_\_

Address \_\_\_\_\_

Tel \_\_\_\_\_ Email \_\_\_\_\_

I wish to make a gift of £ \_\_\_\_\_

## Asylum Aid - STANDING ORDER FORM

To: The Manager, \_\_\_\_\_ Bank, \_\_\_\_\_  
(Address of Bank) \_\_\_\_\_

Please pay **ASYLUM AID** the sum of £ \_\_\_\_\_ each  
month/quarter/year (delete as appropriate) until further notice

and debit my account no. \_\_\_\_\_

sort code: \_\_\_\_\_ starting on (date) \_\_\_\_\_

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Postcode: \_\_\_\_\_

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

[FOR OFFICIAL USE ONLY] To:  
The Cooperative Bank, 80 Cornhill, London EC3V 3NJ  
Sort code: 08 02 28 account number: 65281262

## Gift Aid Declaration

### Asylum Aid Registered Charity no. 328729

If you are a UK taxpayer, Asylum Aid can claim back 28p for every £1 you donate, making your donation worth almost a third more at no extra cost to you. Please complete and return this declaration.

Name \_\_\_\_\_

Address \_\_\_\_\_

I would like Asylum Aid to treat my donations as Gift Aid donations (please tick)

Signature \_\_\_\_\_ Date \_\_\_\_\_

Your declaration covers all donations you have made to Asylum Aid since April 2000 and any donations you might choose to make hereafter. You must have paid as much tax (or more) in this year as we will reclaim on your donation

**To support Asylum Aid's work, please complete and return this form to:  
Asylum Aid, Club Union House, 253-254 Upper Street, London, N1 1RY**