

women's ASYLUM NEWS

Refugee Women's Resource Project - Asylum Aid - Issue 2 August 2000

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UK government policy update

Home Office pledges to address needs of women asylum seekers

The Refugee Women's Legal Group has been negotiating with the Home Office for some time to try to get it to take on its Gender Guidelines for dealing with women asylum-seekers in a more sensitive and appropriate way. The Immigration and Nationality Directorate (IND) has already agreed that requests for same sex interviewers and interpreters will be complied with whenever operationally possible, and that if it is not practical to provide an interviewer or interpreter of the same sex as the applicant consideration will be given to deferring the interview. In a recent letter sent to members of the Asylum Process Stakeholder Group the IND's Asylum Policy Unit informed us that they are still in the process of incorporating gender guidelines into the Asylum Directorate Instructions (ADIs), taking into account comments from the RWLG and their own legal advisers. They hope to be able to issue revised ADIs shortly.

Timetable for new support arrangements to be implemented

Destitute asylum seekers who claim in London have been supported by the Government, and not London councils, since July 24th. The timetable for the inclusion of other parts of the country in these arrangements, which mean that the National Asylum Support Service (NASS) will provide vouchers and accommodation for destitute asylum seekers, is as follows:

Monday 31 July: North East, Yorkshire and Humberside and Wales in-country cases

Monday 14 August: In-country cases in North West, East Midlands, Eastern, South West and South Central

Tuesday 29 August: In-country cases in West Midlands and Sussex

Monday 25 September: All disbenefited cases in England and Wales.

The arrangements will apply to all new asylum seekers in England and Wales who claim asylum on or after the relevant dates set out in the table (in country applicants in Scotland and Northern Ireland are already covered by the new arrangements). All asylum seekers who are currently being supported by local authority social services departments under the interim arrangements in Schedule 9 to the Immigration and Asylum Act 1999 will continue to be so supported. "Disbenefited cases" are those asylum seekers who prior to 3 April 2000 were in receipt of social security benefits but who on or after 25 September 2000 receive a first negative decision, who are thus no longer eligible for social security benefits, who go on to appeal and who continue to be eligible for support.

It is estimated that the extension of the scheme will mean that by the end of September NASS will be dealing with a further 2000 applications per month for support.

Case law update

Colombian woman at risk of domestic violence is refused permission to stay in the UK

In the High Court recently Mr Justice Jowitt upheld the Secretary of State for the Home Department (SSHD)'s decision not to give a Colombian woman, who had experienced domestic violence, exceptional leave to remain in the UK. In his view the most fatal flaw in the case was the woman's deemed ability to live elsewhere in Colombia (a fact which may well arise in a number of domestic violence cases and about which thought needs to be given when drafting representations).

However this was a useful judgement in that the SSHD conceded that a victim of domestic violence would arguably be at risk of "inhumane and degrading treatment" at the hands of her husband if he could gain access to her. It is also an example of how the issues of internal flight and sufficiency of protection will be applied in an Article 3 ECHR appeal. The applicant was a Colombian woman who had originally arrived in 1994 as a dependent of her husband who was seeking asylum. She had a child in 1995, whilst in the UK, and left her husband because of his violence towards her and their son in 1998. Her husband withdrew his asylum claim and returned to Colombia. The applicant applied for exceptional leave to remain (ELR) and her case was argued under Article 3 of the European Convention on Human Rights, on the grounds that she and her son were at risk of inhumane and degrading treatment from her husband if returned.

The Secretary of State for the Home Department (SSHD) accepted this risk; however, the SSHD took the view that she would be able to live in sufficient safety in another part of Colombia, and that the state and her family could provide some protection, albeit limited. She was refused ELR and sought leave to apply for judicial review. The

judge upheld the SSHD's decision and refused the application.

R v. SSHD, ex parte Higueta-Sals, CO 2471/99, 16 May 2000, Jowitt J.

Ukrainian woman trafficked for sexual exploitation wins asylum

The Immigration Appeals Tribunal, chaired by Mr P.R. Moulden, recently dismissed the SSHD's case against granting a young Ukrainian woman asylum, in a positive and groundbreaking determination, which followed the reasoning of *Shah and Islam* correctly and made proper use of the objective evidence. The respondent had been raped, sexually assaulted and forced into prostitution in Hungary. She was helped to escape back to the Ukraine and then to the UK where she claimed asylum. During her stay in the Ukraine she did not go to the police because she did not believe they would help her. Since being in the UK her family in the Ukraine had informed her that people had visited their home looking for her. They had made threats and were believed to be involved with the Mafia. The Special Adjudicator found that the respondent was a member of a particular social group, "women trafficked from the Ukraine to other countries for sexual exploitation and detained under threat of violence". She found that those who held and abused the respondent were agents of persecution because the authorities in the Ukraine were unable to provide the appellant with sufficient protection. Country information supplied reinforced the woman's claims. The SSHD claimed that the respondent was a victim of crime and not a member of a particular social group, but the Tribunal supported the Special Adjudicator's finding and dismissed the SSHD's appeal.

SSHD v. Dzhygun IAT [00/TH/00728] 17 May 2000, Chair Mr P.R.Moulden

Summarised from Refugee Legal Centre's Legal Bulletin No. 77. Contributions of other useful case law summaries welcome.

Searching the Internet for information on claims for asylum

Many advisers will be familiar with using the Internet when looking for evidence to substantiate asylum claims. However, the huge amount of information available means it is easy to spend a lot of time without finding anything relevant. In addition, many of the human rights abuses that affect women are not recognised as such, making it difficult to find relevant information. Future editions of our bulletin will address this problem in greater detail, as well as how to find information on specific regions or countries, case law, and gender related themes. We will also include information on databases and bibliographies available on the web. As a brief introduction, here are some basic sources that provide general information on human rights in particular countries, and some that address issues relevant to women's human rights.

UK Home Office Country Assessments	www.homeoffice.gov.uk/asylum/asylum_contents0.2html These can provide very useful information, particularly because the Home Office is the body responsible for assessing asylum claims.
US Department of State	www.state.gov/www/global/human_rights This site provides very detailed reports that complement those produced by the Home Office.
Human Rights Watch	www.hrw.org Human Rights Watch is an independent organisation producing useful sources of non-political information on particular countries and themes
Amnesty International	www.amnesty.org Amnesty International is also non-political, and as well as producing an annual world report, the website contains recent news updates and urgent action briefings. There are also themed reports available.
United Nations High Commissioner for Refugees (UNHCR)	www.unhcr.ch This website contains a huge amount of information that can be searched on several different criteria, such as country and subject.
UNHCR	www.unhcr.ch/refworld 'Refworld' contains reports on human rights and the situation of refugees as well as links to other sites with human rights information.
BBC	http://news.bbc.co.uk Useful (and searchable) for up to date country information and past events, especially regarding political developments, and has many links to international non-governmental organisations
About.com	www.about.com This site is straightforward to use. It has sections on Human Rights, Women's Rights and Women's Health, lots of links to other organisations, and a good search engine.
UNICEF	www.unicef.org This site addresses information on children's and women's rights, especially relating to health and education.
World Health Organisation	www.who.int/frh_whd/index.html Detailed information on women's health issues, many of which are relevant to human rights abuses, such as Domestic Violence and Female Genital Mutilation
United Nations Development Programme	www.undp.org/toppages/discover/index.html Links to UNDP sites in most countries, with excellent background information on women's and general human rights issues

UK government policy update

Government Action Plan on forced marriages

A 'far-reaching' Action Plan to tackle the overseas dimension of forced marriages was jointly published on 4 August by the Home Office and the Foreign and Commonwealth Office. The Action Plan has been drawn up in response to the report published last month – A Choice By Right - by the Government's Working Group on forced marriage. Outlined in the plan are a number of areas where the Government believes improvements and progress can be made to bring an end to the practice of forced marriage, both in the UK and overseas. Among its proposals the joint Action Plan advocates that:

- staff from both the Foreign and Commonwealth Office and the Home Office based abroad have a clear understanding of forced marriage and are given the resources and training to handle cases effectively;
- victims are given the maximum support, both while they are overseas and on their return to the UK, and that they know who and where to turn for help including lawyers and consular staff;
- the introduction of a major programme to improve liaison between British and overseas police forces and share best practice;
- ways are explored in which the immigration rules deal more effectively with cases of forced marriages such as interviewing both parties in certain cases;
- guidelines and systems are put in place to ensure that good practice is set down and weaknesses identified, with sharing and pooling of information;
- there is an annual collation of statistics of cases. These will then be analysed for trends and distribution, and will be used to build up a clearer picture of the scale and nature of the problem.

Home Office Minister Mike O'Brien said: 'Forcing a young person into marriage is a breach of their fundamental human rights. It cannot be tolerated. The Working Group on forced marriage bravely broke the taboo on discussing this difficult issue openly. It set out a strategy for objectively and firmly tackling the issue. One area where it is evident is in entry clearance cases, or cases of British people taken abroad to marry against their will. Our Action Plan sets out how we will address this issue. I reject scaremongering that this is an excuse for tightening immigration rules. I condemn calls to reintroduce anti-family policies such as the Primary Purpose Rule. I firmly pledge it will not happen. This is about protecting the fundamental human rights of young people – the agenda is open and the moral imperative to act is clear. We are now determined to put an end to this terrible practice, and that is why we are putting the report's recommendations in motion with our Action Plan. It is an ambitious and far-reaching plan, but will provide help to those who need it most and is of the highest importance to the Government.'

An assessment of the Action Plan's progress will be made by the Home Office and the Foreign Office after six months of its implementation. The full report can be found on the Foreign & Commonwealth Office web site at www.fco.gov.uk

Women's groups have been concerned with this issue for some time, and some campaigners believe that the Government's new proposals don't go far enough. Forced marriage is one of the many under-recognised aspects of gender-related persecution which many women undergo. We will be featuring articles on some of these kinds of persecution in future issues of this bulletin. If you have any information you could share with us, please get in touch.

Coming events

Workshops for refugee women

Action for Refugee Women and the Refugee Women's Legal Group are holding workshops for refugee women on their asylum rights, including gender-related issues and what to expect from their solicitor.

Dates: 8 September - English and Kurdish (Surani dialect)

29 September - Turkish and Farsi

Venue: Vaughan House, 46 Francis St, London SW1P 1QN

Time: 10 am to 1 pm. Help with travel costs and childcare may be available.

If you or anyone from your organisation may be interested, please contact Sophia Ceneda at Refugee Women's Resource Project on 020 7377 5123. Please also let Sophia know if you'd be interested in workshops in other languages.

New network on gender-related persecution

The Canadian Council for Refugees proposes to develop an international network of non-governmental organizations committed to ensuring protection for women fleeing gender-related persecution and to host an international conference in Canada (proposed for spring 2001). The network will have the following objectives:

- To increase awareness among NGO's (those fighting gender-based violence, as well as refugee advocates) in as wide a number of countries as possible of the need to recognise gender-based refugee claims.
- To offer a forum for others (decision-makers, academics, policy-makers, representatives of inter-governmental organisations, etc) to gather information and network around the issue of protecting women fleeing gender-based persecution.

The **conference** will be primarily directed at representatives of NGOs from as wide a range of countries as possible, and not simply

Western countries. It will also include strong participation from women who have fled gender-related persecution. The conference will also be designed to attract refugee decision-makers, academics, policy-makers, representatives of inter-governmental organizations, etc. Themes will include

- World-wide context for gender-related violence and efforts to combat it
- Successes and failures in different countries' approaches to protecting women from gender-related persecution
- Particular issues relating to refugees from domestic violence
- Issues of racism and North/South relations as they relate to protection on the basis of gender-related persecution

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RWRP activities

Current research topics

RWRP's Research Team is currently working on reports on the following topics:

- The experiences of Kenyan women as asylum-seekers in the UK
- The effects of the new dispersal policy on women asylum-seekers
- Domestic violence as a ground for asylum – a country-based study of prevalence and availability of state protection

Help would be welcomed - if you would be interested in sharing any information or giving feedback on any of these areas, please contact the Research Team.

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