

Women's Asylum News

Women's Project at Asylum Aid

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Gender Equality, Displacement and Statelessness: Putting CEDAW to Work

Dr Alice Edwards is a Departmental Lecturer in International Refugee and Human Rights Law at the Refugee Studies Centre, Oxford University. Dr Edwards is well respected and widely published in the field of refugee and human rights law. Dr Edwards wrote and presented a background paper for a key seminar between the UNHCR and the UN Committee on the Elimination of all forms of Discrimination against Women held at the UN in New York in 2009. Dr Edwards has written the following article outlining this significant paper and other important issues.

In July 2009, the first ever joint seminar between the United Nations Committee on the Elimination of all forms of Discrimination against Women (CEDAW Committee) and the United Nations High Commissioner for Refugees (UNHCR) was held at the United Nations in New York. The issue on the table was how sex discrimination affects women and girls in the contexts of displacement and statelessness, and whether and if so, how, the UN Convention on the Elimination of All Forms of Discrimination Against Women 1979 (CEDAW) could strengthen the existing legal protection frameworks for displaced and stateless persons. I was commissioned by the UNHCR to write the background paper for the seminar.

THREE BASIC RATIONALES FOR COOPERATION

The paper is based on three basic rationales for cooperation between the CEDAW Committee and the UNHCR: The first rationale is that given the silent spaces in the 1951 Refugee Convention and the two statelessness conventions about sex discrimination (that is, they omit

explicit guarantees), the principles in the CEDAW complement those frameworks. Moreover, rather than being simply complementary, it argues that they form integral elements of the international protection regime for displaced and stateless persons. The second basic rationale is that displacement arising from armed conflict, persecution and other serious human rights violations can intensify the discrimination and inequality experienced by women; meanwhile many persons are at risk of being rendered stateless because of discriminatory nationality laws and women face particular obstacles in relation to accessing and enjoying equal rights to nationality. It is accepted that the experiences of women and girls during asylum, displacement, statelessness, local integration, return and resettlement are very much shaped by their unequal position of power vis-à-vis men. This needed however to be articulated to the CEDAW members so they can better integrate these human rights concerns into their work. The paper describes the myriad situations in which gender inequality and discrimination can be a cause of migration, an obstacle to freedom of movement for women attempting to flee, a risk factor for food insecurity and other economic rights in camp situations, and a limitation on women's ability to find a durable solution, be it integration, resettlement, or return. Moreover, it highlights that forced displacement frequently exacerbates the risks of sexual and gender-based violence. The third premise of the paper is that it acknowledges that gender is not the only 'social stratifier' or characteristic that influences how women experience these situations, but it is an overarching one.

The CEDAW AND THE EQUALITY IMPERATIVE

The paper identifies five principal advantages of drawing upon the CEDAW in the context of displacement and statelessness, as follows:

- The broad definition given to equality by the CEDAW Committee does not necessarily require comparisons to be made between men and women, but rather it focuses on ending patriarchal domination, oppression and the exclusion of women wherever it occurs. Equality is therefore less about making or justifying distinctions between men and women and more about equal access to and enjoyment of human rights.
- The obligation in Article 5 of the CEDAW to eradicate social and cultural norms and stereotypes that reinforce the perceived inferiority of women to men is an explicit obligation missing from many other human rights treaties. This provision requires the root causes of women's inequality to be addressed, and asks more of states and other actors than simply removing the 'symptoms' of women's inequality. Under Article 5, it would not be sufficient simply to remove threats to women's safety by, for example, transporting firewood to refugee camps. It would require further that states and other actors ask the hard questions about why women and girls are viewed as soft targets for sexual violence, delving into social and cultural normative behaviours, practices and perceptions. Furthermore, Article 5 (together with other articles in the CEDAW) would require that women take a leading role in designing and developing appropriate responses.
- The commitment in the CEDAW to eliminate gender inequality in both public and private spheres gives a mandate to the CEDAW Committee to address many issues that are perceived as "taboo", especially when dealing with non-nationals and associated ethnic or racial dimensions, such as family violence, forced marriages, female genital mutilation, and crimes of 'honour'.
- The close relationship between civil and political rights on the one hand and economic, social and cultural rights on the other is also another conceptual advantage of the CEDAW. The inclusion of these two sets of norms within a single instrument strengthens indivisibility arguments and encourages the CEDAW Committee to make interconnections between, for example, poverty, violence and displacement and/or statelessness.
- Finally, the independent monitoring role of the CEDAW Committee has some advantages over the weak supervisory responsibility of the 1951 Refugee Convention (see below).

THE CEDAW COMMITTEE VERSUS THE UNHCR

The supervision of the 1951 Refugee Convention is under-developed, so too for the statelessness conventions. There is no periodic state reporting requirements equivalent to the treaty body system, nor is there an individual complaints procedure. UNHCR often finds itself acting as an intermediary between the authorities of the asylum state and the refugees it is mandated to protect. Its officials often walk a fine line between political diplomacy and upholding the letter or spirit of the law. I highlight the importance of an independent monitoring body, such as the CEDAW Committee, to strengthen international protection and asylum standards worldwide, despite the many problems with the treaty body system. There is an observable trend towards integrating the refugee regime more closely within human rights discourse, and until such time as the supervisory mechanisms over refugees and statelessness are reformed, the CEDAW Committee can act as a workable substitute. In fact, it can in some instances do the 'dirty work' for the UNHCR by criticising states in a public forum in circumstances in which the UNHCR is unable to do so for reasons of politics, security or humanitarian concerns.

The UNHCR has been utilising the treaty body system in this way for some time. It submits confidential reports to various treaty bodies, including the CEDAW Committee, on the performance of states parties under the CEDAW as relevant to displaced and/or stateless persons. In 2008, for example, the UNHCR submitted reports on approximately 70 percent of the states parties under consideration by the CEDAW Committee. The 'up-take' of these issues by the CEDAW Committee was however only at 44 percent, indicating that improved cooperation between the two bodies is needed. The seminar was a step towards this, and a range of practical recommendations were discussed between the two bodies at the seminar.

The CEDAW Committee's response to issues of "statelessness" has been less transparent. It referred to statelessness explicitly in only two reports over a ten-year period (1999-2008), although it has tackled the issue of unequal rights to a nationality in many more reports. The problem has been that the Committee has not made the connections between unequal rights to a nationality and the disproportionate risk of statelessness for women; and in turn it has not elaborated upon the risks for women's other human rights living in situations of statelessness. Although statistics on stateless populations have yet to be disaggregated by sex, the UNHCR estimates that in those countries that operate discriminatory nationality laws, women make up between 51-78 percent of stateless persons.

So has there been any improvement in the 'up-take' of these issues since the joint seminar? In the session immediately following the joint seminar in July-August 2008, there was a sizeable improvement in the discussion of displacement and related issues, with displacement and refugees being mentioned by the CEDAW Committee in 6 out of 11 reports (or equivalent to 55 percent of reports, which is a rise from the 29 percent over the earlier decade). It is still less than optimal with almost all states parties under review either being host to asylum-seekers, refugees, or internally displaced persons. In relation to statelessness, however, the issue was mentioned explicitly only once in the July-August session in relation to Tuvalu in the context of climate induced displacement. This was despite other contexts in which statelessness was directly at issue, such as the removal of ethnic Nepalese women's nationality in Bhutan, or Japan's new laws that abolished the 'family head system' and recognised the right of children born out of wedlock to Japanese men and foreign women to be granted Japanese nationality.

NEXT STEPS?

The CEDAW Committee has agreed that it will proceed to draft a General Recommendation on these issues, one of my key recommendations of the background paper. In addition it has encouraged NGOs and others to submit 'test cases' for consideration under its individual complaints mechanisms, such as women affected by discriminatory asylum laws and/or

procedures, as well as to supply it with reliable information of 'grave or systematic violations of human rights' of displaced or stateless women in which it might be able to conduct an inquiry. To date, the Committee has received two cases involving female asylum-seekers asserting that the gendered dimensions of their asylum applications had not been considered by national bodies. Unfortunately, however, neither of these cases was considered admissible, and the inadmissibility decisions have some problematic elements. There is thus scope for activists and lawyers working in the UK to put forward strong test cases to the Committee, with the hope that it will be the start of a revolution in the Committee's work. Despite the flaws in the CEDAW, not least its non-binding decisions, it does represent another avenue for asylum applicants and others to seek redress and potentially for the building of positive international law on these issues.

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The full title of the paper is: *Displacement, Statelessness and Questions of Gender Equality under the Convention on the Elimination of All Forms of Discrimination against Women*, Aug. 2009 and is available at: <http://www.unhcr.org/refworld/docid/4a8aa8bd2.html>.

The Executive Summary of the paper is available at: <http://www2.ohchr.org/english/bodies/cedaw/docs/CEDAW.C.2009.II.WP.3.pdf>

Women's Asylum News would like to thank Dr Edwards for writing this paper

Significant Legal Issues

Country Guidance Case

PO (Trafficked Women) Nigeria CG [2009] UKAIT 00046

PO provides Country Guidance on the assessment of Nigerian trafficking cases. The Appellant, (A), was a young woman, age 26 from Benin city. She was an orphan with only a basic education and no qualifications. A was duped into coming to the UK by a man she met in Benin City who promised her factory work. On arrival, she was forced into prostitution. Following months of ill-treatment and rape in the UK, A escaped. At the date of the hearing A had a young baby and had been diagnosed with PTSD Major Depressive Disorder.

The case came before the Panel upon remittal for reconsideration by the Court of Appeal. It was accepted at the outset that A was a victim of trafficking, was a member of a Particular Social Group and that she would be at risk from the trafficker in her home town. It fell to the Tribunal to determine the limited issues of whether A would obtain sufficiency of protection from the Nigerian authorities in her home town or elsewhere in Nigeria, whether internal relocation would be unduly harsh and whether A's claim under Article 8 and Article 3 of the European Convention on Human Rights could succeed, primarily due to her medical condition.

In doing so, the Tribunal had recourse to expert evidence from a variety of sources both national and international, and it made a number of general findings regarding risk of trafficking, sufficiency of protection and sources of support, protection and rehabilitation of returned trafficking victims. It also provided guidance on core factors to be considered when reaching findings on risk on return to individual victims.

By way of general findings, the Tribunal:

- Found that in general women and girls do not face a real risk of serious harm from traffickers. However, 'the risk is heightened' for females under the age of forty, poorly educated and living in suburban areas.
- Accepted that, when assessing whether a victim of trafficking could reasonably have sought protection from the Nigerian police, it must be borne in mind that confidence in the Nigerian police amongst the less well off in general was low, and this was particularly so for poorly educated trafficking victims from rural and suburban backgrounds.
- Acknowledged that an allegation that some voodoo practice or oath was employed by their traffickers should be 'carefully examined' and consideration should be given to the 'psychological affect that voodoo may have on an appellant'.
- In general, there is a sufficiency of protection from traffickers in Nigeria and a functioning justice system in which traffickers were prosecuted, although it accepted that the conviction rate was low.
- The National Agency for the Prohibition of Traffic in Persons, (NAPTIP), ran seven shelters across Nigeria. These provided a range of services tailored to meet the needs of trafficking victims, including specialist psychological support, medical aid and training in new skills to facilitate rehabilitation. They also operated a Witness Protection Programme across Nigeria and offered protection to victims of trafficking who feared retaliation, including victims who had testified against traffickers both in Nigeria and abroad.

However, the Tribunal stressed that, when assessing risk on return to individual victims, clear findings of fact on the circumstances in which the trafficking occurred were essential, in particular, whether the victim had been given a 'target earning' which she had escaped before reaching and whether she had been trafficked by a gang or an individual.

Victims of trafficking by a gang, and who had escaped before reaching their 'target earning' were likely to be at higher risk than those trafficked by an individual. The Tribunal accepted that, under such circumstances, '*.... the traffickers are very likely to go to extreme lengths in order to locate the victim or members of the victim's family, to seek reprisals*', (192 b, p. 69).

Applying the general findings of the Tribunal to the specifics of A's case, the Tribunal found that A would not be at serious risk of re-trafficking on return, that there was sufficiency of protection available to her, and that internal relocation would not be 'unduly harsh'. It further found that her medical and psychological needs, as well as any training needs she may have to help her find employment and reintegrate would be available to her via NAPTIP. The appeal was therefore dismissed on all grounds.

Malaysian Woman: Forced Marriage - Domestic Violence - Social Group - State Protection - Internal Relocation

Australian Case – Refugee Review Tribunal Case No. 0906559

This case examines whether the refugee convention can afford protection to a women who has suffered domestic violence, who is marginalised and to whom her country of origin provides inadequate protection.

The appellant was a 42 year old married female, born in Malaysia. She belonged to an ethnic group: Indian Muslims. She has four children, two sons and two daughters, and was estranged from her husband. The applicant arrived in Australia in April 2009 as a visitor. In May 2009 she applied for (asylum) a Protection visa.

The appellant claimed that she was forced into a marriage with her husband, who was a Muslim of Indian ethnicity. He inflicted horrific domestic violence, which she found difficult to express, as it was considered as disgracing and dishonorable upon both her family and his honor. Thus she endured this violence for years. Further she was aware that marital domestic violence was tolerated in Malaysian society and she did not have any eye witness to verify her account which the police required. It was the appellant's case that she would be discriminated against and denied protection by the police because she was an Indian Muslim. It was her claim that this was immediately identifiable due to skin colour.

The violence escalated in March 2005 when her husband burnt her with a hot iron and stabbed her, threatening to kill her for dishonoring him. The appellant was hospitalised. The appellant reported the incident to the police, however, they did not take her report seriously, indicating "*these sorts of fights were common in marriage and it wasn't something you came to the police about*". No police report was filed but the police indicated that she could call them and they would come to her house if her husband was abusive again.

The appellant's Indian background was also part of the case. Malay Muslims in Malaysia treat her as an Indian Hindu and Indian Hindus discriminate against her as she is Muslim. The Government in Malaysia does not recognise her as Malay because of her Indian background and deny Indian Muslims government assistance.

The Tribunal accepted the appellant's account of past domestic violence without hearing oral evidence from her. This was accepted as there was medical evidence indicating PTSD.

The Tribunal accepted that the appellant was a member of a particular social group. In defining this the Tribunal did not accept that "Malaysian women" or "married Muslim women in Malaysia" accurately reflected the particular social group. Having considered the various possible particular social groups to which the appellant could belong, the Tribunal considered that "Malaysian Women of Indian/Muslim ethnicity who suffer domestic violence" appropriately categorises and encompasses the particular social group to which the Appellant belongs.

The Tribunal went on to accept that domestic violence in Malaysia can be perpetrated without it being visible because of cultural attitudes women are encouraged to hold. Even if domestic violence does come to the attention of the authorities, the Tribunal confirmed that the country information makes it clear that there are very few prosecutions of perpetrators and that police are often reluctant to follow up on "private" matters with any vigour. In the Tribunal's opinion the Domestic Violence Act in Malaysia remains, therefore, more a matter of form rather than substance. The lack of effective enforcement reinforces to the perpetrators that domestic violence is not of public interest, particularly as it reflects the views of the "correct" relationship between husband and wife, that is, wife being subservient and the property of the husband.

The Tribunal accepted the objective evidence that Indians are a minority in Malaysian society and that they faced hardship and discrimination. The Tribunal viewed the appellant as a marginalised person within an already marginalised group due to her being a Muslim woman of Indian ethnicity.

The Tribunal also considered the appellant's psychological state. Based on the medical evidence it concluded that this was extremely fragile and that in itself should be a consideration for not returning her to her home country.

The Tribunal then went on to consider case law and confirmed that an unwillingness to seek protection will be justified for the purposes of Article 1A(2) where the state fails to meet the level of protection which citizens are entitled to expect according to "international standards". The Tribunal then concluded that once a claim meets the threshold of serious harm as has occurred

in this case, the relevant consideration is whether effective state protection is available for the gender and ethnic based violence to which the appellant was subjected by her husband. The authorities' disinclination to take any steps to investigate or intervene in family violence cases in Malaysia underscores the lack of official protection afforded to women even if they lodge a formal complaint.

On the point of internal relocation the Tribunal found that it would not be reasonable, given the psychological harm suffered by the appellant, that she would be able to re-build a life as a single mother in Malaysia.

The appellant's asylum claim was allowed.

Canadian Case: US Lesbian Smith V Canada (Citizenship and Immigration) 2009 FC 1194 (CANLII)

Proceedings

This was an application for judicial review of a decision by the Refugee Protection Division of the Immigration and Refugee Board (the RPD in Canada) to refuse her claim for refugee or other protection status. The application for judicial review was granted.

Facts

The applicant was a 21-year old citizen of the USA and a lesbian. She had deserted her position in the army. She feared persecution by her colleagues and superiors because of her sexual orientation. She also feared that her life would be at risk or that she would suffer cruel and unusual punishment if she were returned to the USA.

The applicant was posted to Fort Campbell, the only woman mechanic in her section. She was subjected to harassment and insults by colleagues due to her lesbian appearance. This got worse when she was seen holding hands with another woman in a public place. When her superiors found out, they treated her harshly, giving her assignments incompatible with her medical condition. She received hundreds of handwritten notes threatening beatings and one threatening to murder her while she slept.

The applicant had not reported the notes to her superiors because they had treated her badly following rumours about her sexuality and she feared that high ranking officers could be behind the acts of harassment. She destroyed the notes.

The applicant feared that the death threat would become reality. She tried to obtain a discharge by revealing to her superiors that she was a lesbian. Her request was denied and the Sergeant ordered her not to speak to higher ranking officers about it.

The applicant fled with another soldier and received two further threats before fleeing to Canada.

The decision of the Refugee Protection Division "Don't Ask, Don't Tell, Don't Pursue" policy

The RPD summarised that this policy had been introduced to ease the ban on gay men and lesbians in the military. It allowed gay people to serve provided they did not engage in "homosexual conduct". A directive had been added, banning the harassment of lesbians and gay men.

The RPD mentioned the murder of a soldier, thought to be gay, who was beaten to death with a baseball bat, while he slept. The RPD said that this was in 1990 but in fact it was in 1999, 6 years after the introduction of the policy.

The RPD:-

- Accepted that the applicant was a lesbian
- Accepted that harassment and violence against gay and lesbian staff was a cause for concern.
- Ruled that a lesbian belongs to a particular social group¹ for the purposes of the Convention.
- Noted that “there is no duty to be discreet” or to take certain steps to avoid persecution².
- Concluded that the acts of harassment, intimidation and written threats did not constitute persecution.
- Concluded that the applicant had not proven that the USA was unable to protect her.
- Concluded that the applicant had not demonstrated a serious possibility of persecution.
- Concluded that the applicant had not shown that she was more likely to face torture, risk to life or cruel and unusual treatment or punishment.

The decision of the Federal Court

- The RPD erred in finding that the murder of the soldier was an isolated incident and that those who harass, threaten, or harm gay men and lesbians are severely punished. The only evidence was to the contrary.
- The RPD erred in its assessment of the evidence of the applicant’s attempt to seek protection.
- The RPD erred in its assessment of the treatment of lesbians and gay men in the army.
- The RPD erred in its finding on the availability of state protection in its over-reliance on *Hinzman v Canada*³. Hinzman was a conscientious objector case whereas this case concerns the applicant’s sexual orientation.
- The RPD erred in omitting to assess whether the Uniform Code of Military Justice (UCMJ) is a law of general application, whether it is discriminatory and whether it would be applied to the applicant in a discriminatory way.

How does this compare with current position in UK law?

In *Smith v Canada* the RPD referred to a UNHCR guidance note and stated “*there is no duty to be discreet or to take certain steps to avoid persecution, such as living a life of isolation, or refraining from having intimate relationships*”.

In **AJ Afghanistan CG**⁴ and **MK (Lesbians) Albania CG**⁵ discussion focussed on whether a claimant could be discreet. In AJ it was found that, a homosexual, returning to Afghanistan would normally try to keep his sexuality private and to avoid coming to public attention; generally, practising gay men could safely relocate to Kabul (although in this case internal relocation was found not to be a viable option). In MK it was found that lesbians tended to conduct relationships privately and did not frequent known gay locations and as a consequence “*there is lacking the opportunity for them to be harassed or persecuted by police*”. Because of this, in general, a lesbian’s fear of persecution because of her sexuality, could not be well-founded.

¹ On the basis of 2 decisions of the Federal Court – *Sadeghi-Pari, Fariba v Canada (Minister for Citizenship and Immigration) 2004 FC 282 (CANLII)* and *Dosmakova, Sofgya v Canada (Minister for Citizenship and Immigration) 2007 FC 1357 (CanLII)*.

² Referred to UNHCR guidance note.

³ *Hinzman v Canada (Minister of Citizenship and Immigration) 2007 FCA 171 (CanLII)*

⁴ *AJ Afghanistan CG [2009] UKAIT 00001*

⁵ *MK (Lesbians)Albania CG [2009] UKAIT 0036*

International News:

Sudan: Girl lashed over length of skirt

A 16 year old girl in Khartoum, Sudan was arrested after her knee-length skirt was deemed indecent. The girl was arrested by a local market and received 50 lashes for the 'offense.' This case comes after the recent high profile arrest of UN official Lubna Hussain who was arrested along with other women for wearing trousers in public. The girls family from the Christian south of the country are currently trying to sue the police as their daughter was underage and a Christian. The girl's mother states: *"She is just a young girl but the policeman pulled her along in the market like she was a criminal. It was wrong..... I only heard about it after she was lashed. Later we all sat and cried.... People have different religions and that should be taken into account."*

As part of the peace deal in 2005 the Sudanese government agreed to soften the impact of Sharia law for people from the Christian south of the country living in Khartoum. Women's groups however argue the 'decency laws' are too vague and are open to too much interpretation by the country's separate public order police who are themselves deciding what clothes are considered 'appropriate'.

Lawyers representing the arrested girl state: *"She was wearing a normal skirt and blouse, worn by thousands of girls. They didn't contact a guardian and punished her on the spot".* They are currently preparing a case based on the grounds that a girl who is under 18 should not be given lashes.

For full article see:

<http://www.wluml.org/node/5750>

Nepal: More work needed to tackle human trafficking

International employment and remittances are a key source of income for Nepal, however the growing demand for employment overseas particularly in the Gulf States is leaving many women vulnerable to exploitation and abuse. Biswo Khadka, director of national NGO Maiti Nepal states: *"the trend of trafficking to the Gulf for labour is a growing problem, as it often a challenge to control this..... This is a serious problem that needs to be addressed strongly, or a lot of Nepali women will face enormous risk of being trafficked and victimised."* Saru Joshi, regional coordinator for the UN Development Fund for Women (UNIFEM) warns *"A large percentage of the Nepalese female workers are illiterate and impoverished and they have no choice but to work abroad for the sake of feeding their families, and they do that even at the risk of being killed."* UNIFEM have advised the Nepalese government to introduce the 'Foreign Employment Act 2007' to protect women's security when working overseas. However, NGOs are concerned the law is not being implemented properly. In addition, the prosecution of traffickers is extremely limited due to a lack of evidence. Anu Tamang, president of the Shaki Group reports: *"unfortunately, the traffickers go scot-free due to a lack of enough evidence, and it is very difficult to prove their crime."*

The article also outlines the stories of two women who were trafficked to the Gulf. Both women had been promised good jobs by a local job broker, however upon arrival in the Gulf they were sold to families as domestic servants. The women both experienced abuse and one woman discussed how her employer and his friends sexually abused her.

For full article see:

<http://www.irinnews.org/Report.aspx?ReportId=87203>

Iraqi Refugee Women in Syria

Women who have fled ongoing violence in Iraq often find themselves on the margins of society in Syria. Refugee widows or single women are particularly at risk of physical and psychological abuse without protection from male relatives. Some refugee women report they are viewed with suspicion by other families stating *"Some call us whores, thinking that we are fallen women, unwholesome, because we live alone, go out to work, to get food and will not return to Iraq."*

Whilst in Syria, although women can access healthcare, many women do not get adequate psychological or medical support to help them recover from their experiences of trauma. Syria has few specially trained psychologists, clinical psychiatrists or mental health experts with specific experience of dealing with victims of rape, torture or kidnapping. Furthermore, many professionals hold prejudices that women are often responsible for their own rape leaving concerns that women are further traumatized.

Due to the high cost of living in Syria, lack of work opportunities and access to legal work many families are forcing their daughters into early marriages or even prostitution. In Syria, foreign prostitutes face arrest and deportation. The trafficking of women has increased and many victims of trafficking subsequently become victims of honour killing by their families and communities.

For full article see:

<http://www.refugeesinternational.org/blog/iraqi-refugees-women-margins>

Somalia: Bosasso Internally Displaced Women vulnerable to rape

Internally displaced women in Bosasso, part of Somalia's self-declared autonomous region of Puntland are reporting high incidents of rape within internally displaced people's (IDP's) camps. Hawa Ali Jama, from NGO *We Are Women Activists (WAWA)*, states: *"We are seeing more and more women who have been raped in the displaced camps...We have recorded 30 women raped in October 2009 and 45 in November"* although the actual number of rapes is likely to be much higher. Hawa Ali Jama believes many women do not report rapes as her family may not wish her to do so and for fear the perpetrator will come back. Hawa Ali Jama also states some rapes are committed by other IDP's. She believes, it is common for an IDP man to ask a woman to marry him and after she refuses rape her. Due to local tradition, he would then be forced to marry her which was his intention all along.

The crimes are particularly concerning as they are committed in areas internally displaced women believe are safe places. One woman in this article talks of finding her daughter tied up and bleeding after she was raped. She states: *"I never thought it would happen here. It was for fear of something like this happening that I fled Mogadishu... It seems no place is safe for us."*

For full article see:

<http://www.irinnews.org/Report.aspx?ReportId=87453>

Honduras: Hidden Human Rights Crisis

Amnesty International is campaigning on the hidden human rights crisis for women in Honduras since the recent coup d'etat. This article interviews several key women's rights activists who discuss a recent deterioration in women's human rights violations. Gilda Rivera talks of a recent rise in sexual violence committed by security forces. She talks of one example where: *"A woman was detained by police officers after a demonstration, taken to a piece of wasteland and raped by four police officers. She recognized some of them from the names she could see on their*

uniforms. They left her there. She was forced to move away from her home because of the fear she feels. This is the punishment women experience for daring to speak out - to participate, to be citizens." For Gilda "The coup d'etat ruined much of what we had gained and achieved... all women have received is more violence."

Donny Reyes also discusses problems facing the Lesbian Gay Bisexual and Transsexual and Transgender (LGBT) community in Honduras. The Rainbow Association has published details of 14 killings of LGBT people four months after the coup d'etat. Donny Reyes stated: *"These are the violent deaths and crimes that we have documented. It doesn't include the many others we don't know of - the ones that are left in impunity, lost in limbo"*

For full article see:

<http://www.amnesty.org/en/news-and-updates/activists-honduras-tell-amnesty-international-hidden-human-rights-crisis-2009120>

UK Training

Training provided by Rights of Women.

Breaking the cycle: using civil and criminal remedies to protect women from violence **26th February, London, NCVO**

This one day course will equip you with a practical knowledge of the range and scope of legal remedies available for women who have suffered domestic and sexual violence. The training will provide a comprehensive overview of protections offered by the civil and criminal law and will enable you to assist a woman to choose the best protection for her situation. You will then focus on how to support a woman through the process of the legal remedy she has chosen, including how to apply for and enforce a civil injunction. The course will also provide an update on the development of new 'Go' protection orders.

Forced Marriage: gaining protection through the law **10th March (pm), Darlington, eVOLution (half day training)**

Forced marriage is an abuse of human rights and a form of violence against women. This half-day course will enhance your knowledge of the law and enable you to support women and girls at risk of, or who have experienced, forced marriage. The course explains the legal remedies that exist to protect victims of forced marriage and will give you an understanding of the procedure for getting a forced marriage protection order. We will investigate the new role of local authorities as relevant third parties and examine the impact of the Forced Marriage (Civil Protection) Act 2007 one year on.

For further information and booking details please see:

<http://www.rightsofwomen.org.uk/training.php#> Or email: training@row.org.uk

All attendees receive a copy of ***Seeking Refuge? A handbook for asylum-seeking women*** and a copy of ***From Report to Court: A handbook for adult survivors of sexual violence***

International Research:

We Have the Promises of the World – Women's Rights in Afghanistan Human Rights Watch

Eight years after the fall of the Taliban and the establishment of the Karzai government in Afghanistan, women continue to suffer. This report explores the current situation for women in Afghanistan including areas of health, education, employment, exposure to violence, equality in law and political participation. The report highlights that despite rhetoric from the Afghan government, international community and donors, the status of women's rights in Afghanistan is diminishing. Legislation introduced in 2009 to regulate personal affairs of Shia Muslims including matters of divorce, inheritance and minimum age of marriage illustrates women's current lack of personal freedom.

The report focuses on five key issues: attacks on women in public life; violence against women; child and forced marriage; access to justice and girls access to secondary education. The research provides background information, examples and women's testimonies for each area. Over 120 women were interviewed in Afghanistan for this report. Central to the report is growing concern regarding the weak political system and government which is becoming reliant on fundamentalist and conservative factions and lacking any commitment to fight for women's rights.

The report concludes with key recommendations to protect women's rights and to clarify and improve the new Elimination of Violence Against Women law to ensure it meets international standards. The report also calls for the urgent release an apology and compensation for all women detained on the charge of "running away from home".

For full report see:

http://www.hrw.org/sites/default/files/reports/afghanistan1209webwcover_0.pdf

Also see Human Rights Watch associated podcast '*Broken Promises*'

<http://www.hrw.org/en/multimedia-podcast>

Fleeing for Love: Asylum Seekers and Sexual Orientation in Scandinavia New Issues in Refugee Research - Research Paper 181 Peter Hojem UNHCR

This research report explores the legal basis for persons to claim asylum on the grounds of their sexual orientation in three Scandinavian countries: Denmark, Norway and Sweden. The paper firstly discusses international jurisdiction, national legislation and the actual practice of processing legal claims based on persecution due to sexual orientation. The paper identifies difficulties positioning sexual orientation within the Refugee Convention and key contradictions between liberal national policies on homosexuality and how sexual orientation is treated within the asylum system. In addition, the report also illustrates the practical procedures which face asylum seekers upon arrival and whilst their asylum claims are being assessed.

The research documents approximately 80 countries that criminalize homosexuality in a variety of forms, ranging from a fine to prison sentences and the death penalty. Due to the criminal nature of homosexuality, lesbian, gay, bisexual and transgender people (LGBT) find it impossible to seek protection from the state. Within this context, the UNHCR advise a person can claim asylum on the grounds of sexual orientation if they have a well founded fear of persecution if they were returned to their country of origin. In addition, UNHCR state that a person should not be

told to change or conceal her sexual orientation in order to avoid prosecution. However, the paper identifies how despite UNHCR guidelines, in reality, asylum claims based on sexual orientation in Norway, Denmark and Sweden are often unsuccessful in cases where a persons' sexual orientation is not in doubt. For example, the paper highlights cases in Norway where claimants are told it 'must be expected to a certain degree that a person adjust their behaviour, clothing et cetera, to the government's social and cultural codes'.

The paper concludes that more research is needed on the international persecution of LGBT people. In addition, the paper recommends training and good practice guidelines for judges, immigration authorities, border guards as well as reception staff, interpreters and immigration services. This includes a greater understanding of the difficulties many LGBT people have in discussing their sexual orientation due to cultural beliefs and religious practices.

For full research report see:

<http://www.unhcr.org/4b18e2f19.pdf>

Peril or Protection: The Link Between Livelihoods and Gender Based Violence in Displaced Settings
Women's Refugee Commission

During conflict situations displaced and refugee women are vulnerable to increases in violence, sexual abuse and exploitation, trafficking, forced impregnation, domestic abuse, legal discrimination and early and forced marriage. Refugee and displaced women and girls are especially vulnerable to rape and many also become forced into sexually exploitive relationships in order to secure food and protection. This paper specifically links women's access to livelihoods to help reduce gender based violence.

This research report explores whether programmes designed to protect and help secure the livelihoods of displaced and refugee women in practice, are actually able to reduce their risks to violence. The research consists of field visits to refugee locations including specific programmes in Burundi, interviews and desk based research.

The research identifies without access to economic employment refugee women often have to resort to high risk activities in order to support themselves and their families which consequently leave them vulnerable to abuse and sexual exploitation. Moreover, the paper discusses how certain interventions to increase the economic activities of women have actually increased their domestic violence at home as spouses resent their economic independence.

The research paper concludes with several key recommendations for donors, programmers and policy makers. Recommendations include more evidence-based programming for increased livelihood projects with refugee and displaced women and a greater use of specialist expertise. The paper also advocates for refugee women to be granted legal status and the right to work in their countries of refuge in order to enhance their protection against violence.

For full research report see:

http://www.womensrefugeecommission.org/images/stories/GBV_livelihoods_FINAL2.pdf

Charter of rights of women seeking asylum



Every Single Woman Campaign: Progress Report

It is now over a month since the *Every Single Woman* briefing and film were released, so it seems a good time to consider the impact of the campaign so far:

- 205 organisations have endorsed the *Charter of rights of women seeking asylum*.
- 108 people have joined the *Women's Asylum Charter* Google group.
- Throughout December, organisations as diverse as Refugee Action and The Association of Jewish Women's Organisations in the UK wrote to the Immigration Minister, Phil Woolas, recommending an urgent change of culture within the UK Border Agency to ensure that women asylum seekers receive a comparable standard of treatment to women in similar situations who are settled in the UK
- The campaign was raised at public meetings in cities including London, Cardiff and Paris. We received feedback from practitioners and academics as far afield as the USA and New Zealand.
- The *Every Single Woman* film has been shown at events all over the UK. Almost 900 people have visited the website to watch the film online. We have received numerous requests for copies of the film to be used for training and awareness raising purposes.
- The Briefing has been sent to over 250 organisations, and requests for hard copies are still being received.

The Home Secretary, Alan Johnson, responded to a Parliamentary Question put by Neil Gerrard MP in the House of Commons on 14th December 2009. He stated that the issue raised by the *Every Single Woman* campaign - the need for reforms for women in the asylum system similar to the reforms in the criminal justice system - was raised during the Government's consultation on an integrated strategy to end violence against women and girls. He stated that the publication of the strategy is not the end of the issue; in fact, it is the beginning. He continued that the Government has looked at taking out certain strands, including this issue, getting much more information on it and tackling it as part of the ongoing strategy.

The Immigration Minister, Phil Woolas, stated in writing that he is pleased to see the Charter's continuing efforts to highlight the needs of women seeking protection in the UK. He wants the UKBA officials to continue working closely with us to take these important issues forward and to be kept updated on progress. Meanwhile, the Chief Executive of the UK Border Agency, Lin Homer, has offered us a meeting in mid January to discuss the campaign.

To see the *Every Single Woman* Briefing and accompanying film visit: www.asylumaid.org.uk/charter

To request a hard copy of the briefing or DVD, or if you have any further questions or wish to endorse the *Charter*, email: charter@asylumaid.org.uk

Donations to Asylum Aid

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.

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Gift Aid declaration Asylum Aid - Registered Charity no. 328729

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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

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