

# Women's Asylum News

## Women's Project at Asylum Aid

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## Human trafficking and asylum: Problematic overlap<sup>1</sup>

Abigail Stepnitz

Within the overall United Kingdom (UK) approach to human trafficking lies a stratified and often discriminatory system largely reliant on rhetoric and practice taken from responses to immigration. The understanding of trafficking, the identification of victims<sup>2</sup> and their treatment varies greatly depending on the immigration, documentation and residency status of the person involved. This is particularly so for individuals with the dual identity of trafficked person and asylum seeker.

Concerns about the treatment of women in the asylum system have been raised by several organisations and legal representatives, and has most recently been confirmed by the Chief Inspector of the UK Border Agency (UKBA).<sup>3</sup> In January 2011, the NGO Asylum Aid published *Unsustainable*, the first piece of substantial research into women's experience of the asylum system. The report

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<sup>1</sup> Adapted from Stepnitz, Abigail. 26 June 2012. A lie more disastrous than the truth: Asylum and the identification of trafficked women in the UK. *Anti Trafficking Review* (1), pp. 104-119. Available at [http://www.antitraffickingreview.org/images/documents/issue1/TheReview\\_article6.pdf](http://www.antitraffickingreview.org/images/documents/issue1/TheReview_article6.pdf).

<sup>2</sup> For the purposes of this article a 'victim of trafficking' will refer only to those persons who have been formally recognised as such by the government of the United Kingdom and placed in that administrative category. All other trafficked persons in the UK, regardless of their position with regard to the government will be referred to as trafficked persons, trafficked people or persons who have been trafficked.

<sup>3</sup> Independent Chief Inspector of the UK Border Agency, (2010). *Asylum: getting the balance right? A thematic inspection July –November 2009*. London: OCIUKBA. Page 19.

concluded that: “[W]omen were too often refused asylum on grounds that were arbitrary, subjective, and demonstrated limited awareness of the UK’s legal obligations under the Refugee Convention”.<sup>4</sup> When Asylum Aid informed UKBA of the findings the agency confirmed internal data also shows that a disproportionately high percentage of women refused asylum are granted some form of leave at appeal.

Unfortunately to date there has not been any comprehensive evaluation of the impact that locating trafficking victim identification in an immigration context has on the overall identification process or the trafficking claimants themselves. Therefore this article analyses the experiences of victims of trafficking supported by the Poppy Project,<sup>5</sup> the UK’s largest independently funded counter trafficking support and advocacy organisation, drawing on other empirical data including the publicly available national figures for identification of victims of trafficking.

In 2008, after mounting pressure from NGOs to recognise the limitations of the UK’s response to trafficking, the UK ratified the Council of Europe Convention on Action against Trafficking in Human Beings (ECAT), a key piece of international legislation that creates important and specific obligations on the state, particularly with regard to victim protection. The Convention came into force on 1 April 2009.

ECAT clearly identifies the importance of a rights-based approach and the need to guarantee gender equality.<sup>6</sup> To assist all states parties with its implementation, the Organisation for Security and Cooperation in Europe developed the concept of a centralised National Referral Mechanism (NRM), a tool that was intended to ensure states could be compliant with the identification and victim care obligations in the Convention.<sup>7</sup>

Decision-making authority within the UK’s NRM is divided according to the person’s immigration status. For those who are UK or European nationals, decisions are made by the UK Human Trafficking Centre, which is part of the Serious Organised Crime Agency. Not only are these claims not contributing to UK immigration statistics, but it is important to note that positively identifying European nationals often does not create a financial obligation that otherwise would not exist.

Non-EU nationals, regardless of their legal status, have their trafficking claim evaluated by the UK Border Agency. Critically, individuals who are both asylum seekers and claiming to be trafficked will have both decisions made by the same immigration official. According to the guidance published for both asylum case owners who encounter victims of trafficking and competent authorities who will make NRM and/or asylum decisions, the two systems are intended to run in parallel.<sup>8</sup>

Many NRM and asylum decisions made simultaneously use the exact same text and often NRM decisions will include sections such as ‘risk on return,’ a critical element of asylum decision making that is not at all essential in determining whether a person has been trafficked. Asylum claims are based on an individual’s well founded fear of persecution in their home country, the risk they face upon return. A person may have been trafficked out of circumstances that do not meet the threshold for asylum, but still be in need of immediate assistance to recover from abuses experienced in the UK. The absence of refugee status cannot legally exclude them from accessing that support. Use of language related to risk on return shows a reliance on the wrong kind of information to make a

<sup>4</sup> Asylum Aid (2011) *Unsustainable: The quality of initial decision-making in women’s asylum claims*. Page 5. London: Asylum Aid. Available at: <http://www.asylumaid.org.uk/data/files/unsustainableweb.pdf> [Accessed 2 August 2012].

<sup>5</sup> The Poppy Project is the largest independently funded service in the UK which delivers support and/or accommodation to female victims of trafficking. It has, as of this writing, received over 2000 referrals and supported more than 750 women. Access to the project is dependent on a woman meeting certain criteria based on the international definition of trafficking. In accordance with the ECAT, women accessing Poppy Project services are not required to cooperate with authorities as a condition of receiving support and accommodation, but are supported to do so if and when they choose.

<sup>6</sup> Council of Europe, *Council of Europe Convention on Action Against Trafficking in Human Beings (ECAT)*, CETS 19716 May 2005. Article 1. Council of Europe. Available at: <http://www.unhcr.org/refworld/docid/43fded544.html> [Accessed 2 August 2012].

<sup>7</sup> Office for Democratic Institutions and Human Rights, 2004. *National Referral Mechanisms: Joining Efforts to Protect the Rights of Trafficked Persons*. Warsaw: Organisation for Security and Cooperation in Europe.

<sup>8</sup> UK Border Agency. (2010) *Guidance for the Competent Authorities*, p. 31. London: UKBA.

trafficking decision, especially when that information suggests that a person should not remain in the UK.

There is no appeal process for any NRM decision; the only way to legally challenge a decision is via judicial review at the High Court. If judicial review fails the only recourse is the European Court of Human Rights. For many people this means an effective remedy is only a theoretical possibility, not a right they can exercise.

### **NRM and asylum statistics**

NRM statistics collected and published by the UK Human Trafficking Centre in March 2011<sup>9</sup> show that EU nationals were assessed as presenting "reasonable grounds" of having been trafficked at the initial stage in 93.8% of cases and 72.7% (of all cases, including those with negative Reasonable Grounds decisions) were conclusively determined to be victims of trafficking. For UK nationals the numbers are even higher, with 96.1% (of 52 cases) assessed as presenting "reasonable grounds" of having been trafficked at the initial stage and 91.8% conclusively determined to be victims of trafficking

The average positive reasonable grounds decision rate for non-EU nationals is only 61%. In relation to final determinations of trafficking status the comparison is even starker with an average of 82.8% of UK and EU nationals conclusively accepted to be victims while the average for non-EU nationals is only 45.9%.

It is impossible to know exactly what percentage of non-EU nationals presenting as victims of trafficking also claim asylum, but data collected by the Poppy Project provides some insight.<sup>10</sup> From 1 April 2009 to 31 March 2011, 418 non-EU women were referred to and assessed by the Poppy Project as having credible trafficking claims. 181 of those women were able to provide information about their immigration status (all women are asked, but many are unsure about their own status at point of referral). Of those 181, 168 were either claiming asylum or had been refused asylum. An additional seven women had not claimed asylum but expressed an intention to do so. Therefore of the 181 cases, 175 women, or 96.6% were also in the asylum system. The overwhelming majority of those claims are still outstanding, but longer-term data collected by Poppy suggests a refusal rate at initial asylum decision of 75-80%. Of these, however, 89% are overturned at appeal and some form of leave to remain is granted.<sup>11</sup>

The UK Home Office statistics on asylum claims as of end 2010<sup>12</sup> show average rates of initial grants of asylum are approximately 22.6%, but importantly when those individuals who were not granted at initial decision lodged an appeal, an average of 24.6% were successful. As mentioned above it is the same case owners who make decisions in both the asylum and the trafficking claims, a decision that has been found to be incorrect or legally indefensible in a significant percentage of appeals. This may indicate that if an appeal mechanism was in place for the NRM we may see greater rates of overall recognition for victims of trafficking.

### **Experiences and outcomes of trafficked persons claiming asylum**

No comprehensive evaluation of the asylum outcomes of trafficked people is possible, as government records are not kept in a way that would permit the necessary data analysis. This means that the only way that such evaluations can be done is by groups or legal representatives working with individuals navigating both systems.

Several examples exist of cases where violence against women in the context of trafficking-related exploitation has been dealt with inappropriately in both systems. For example the NRM decision of

<sup>9</sup> UKHTC (2011). *National Referral Mechanism Data*. London: SOCA. <http://www.soca.gov.uk/about-soca/about-the-ukhtc/national-referral-mechanism/statistics> [Accessed 2 August 2012].

<sup>10</sup> This estimate is based on an analysis of information held on Poppy Project service users referred between 1 April 2009 and 31 March 2011. All data held by Poppy Project, London.

<sup>11</sup> *Ibid.*, based on data collected between March 2003 and August 2011, a total of 792 cases.

<sup>12</sup> Home Office (2010) Monthly asylum application tables - December 2010. Table of number of applications received for asylum in the United Kingdom and a table of pending applications received for asylum since April 2006. Available at: <http://www.homeoffice.gov.uk/publications/science-research-statistics/research-statistics/immigration-asylum-research/asylum-app-dec-2010?view=Standard&pubID=866000>.

Ms B, an Indian woman exploited in forced labour who also experienced sexual violence at the hands of her trafficker stated:

“It is noted that you have highlighted numerous incidents of non-consensual sex [...] and some instants [sic] of violence. [...] Although this experiences [sic] are extremely unpleasant it is considered that this treatment [...] does not amount to trafficking in your case.”<sup>13</sup>

Ms B's claim of trafficking was based on a situation of forced domestic labour. Her experience of rape was reflective of a type of abuse experienced in that situation, as victims of trafficking often report experiencing physical and sexual violence in addition to their exploitation in forced labour.<sup>14</sup> Commenting on her experience of sexual violence suggests a failure to understand gender-based violence. The nature of the commentary itself is also offensive; referring to rape as “unpleasant” is entirely inappropriate.

Her initial asylum refusal was overturned at appeal as the judge accepted her claims of trafficking and rape, rendering the NRM refusal meaningless.

Ms C, an Albanian national, received a decision that stated she was not believed because she was “significantly aware of the pricing structure”<sup>15</sup> in the brothels in which she was exploited.

Official UK Border Agency guidance on assessing whether or not someone is a victim of trafficking states:

“Victims of trafficking may be reluctant to go into much detail about the full facts of their case... interviewing officers should phrase their questions carefully and sympathetically, but should keep in mind the need to get as full an account as they can, while at the same time taking care not to cause undue distress...The first task is to assess the material facts of the asylum claim, giving appropriate weight to all the evidence, oral or documentary.”<sup>16</sup>

It would seem that having regard for the trauma someone has experienced comes second to assessing the material facts of their claim. Similarly competent authorities under the NRM are told that victims may be unable or unwilling to go into excessive detail about their experiences of exploitation, yet then makes unhelpful assumptions when determining credibility, such as in the example below.

“Your description of how you escaped the brothel is contradictory and vague in your asylum interview. You do not remember where the house was located, you do not know the name of the man who helped you to escape, you do not remember the name of the train station you went to after escaping. Whilst it is noted that you were relatively new in this country when these events unfolded, it is considered that you would have some memory of such basic details given the significance of these events and their impact upon you...You explained this by saying you were “stressed and not thinking.” You (sic) explanation is not accepted...Consequently your evidence about the alleged escape from your abductors is not accepted.”<sup>17</sup>

## Conclusion

It is clear that women who have been trafficked and are claiming asylum in the UK are experiencing significant difficulty in being identified correctly as victims of trafficking and therefore accessing their rights and entitlements under ECAT. These identification problems mean that many women cannot access housing, medical care, education and safety. Consistently high refusal rates of persons from certain groups, especially nationals of countries with higher asylum-seeking populations such as Nigeria and China, reinforce stereotypes about regions and countries of origin, which impact on decision making and likelihood of a police investigation or prosecution, which in turn impact prevention work. The UK cannot possibly effectively prevent trafficking or assess threats based on a biased and unrealistic information base. Both the asylum and NRM systems are designed to provide

<sup>13</sup> UK Border Agency (2011) NRM Reasonable Grounds Decision [fax] (Personal communication 15 May 2009).

<sup>14</sup> Stepnitz, Abigail (2009) *Of Human Bondage: Trafficking in Women and Contemporary Slavery in the UK*. London: Poppy Project. Page 27.

<sup>15</sup> UK Border Agency, 2011. NRM Reasonable Grounds Decision [letter] (Personal communication 22 September 2010).

<sup>16</sup> UK Border Agency, 2010. *Victims of Trafficking: Guidance for Frontline Staff*, p. 23. London: UKBA.

<sup>17</sup> UK Border Agency, 2011. NRM Reconsideration [email] (Personal communication 15 February 2011).

necessary protection to people who have experienced, or are at risk of, serious human rights violations. As noted above, widespread concerns about the ability of the asylum system to properly determine credibility are very relevant to the NRM as well. Unless significant work is done to improve the identification mechanism, educate decision makers effectively, extract trafficking from the asylum system and focus on the rights of individuals over immigration outcomes, the UK will continue to use systems that are far less than ideal, sending a message to perpetrators, trafficked people and the global community that the UK does not take trafficking seriously.

*Women's Asylum News would like to thank Abigail Stepnitz for writing this article.*

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## Legal Issues

### No violation of Articles 2 and 3 ECHR where applicants alleged being at risk of “honour” crimes in Yemen

#### Case of A.A. and Others v. Sweden (Application no. 14499/09)<sup>18</sup>

The case was brought by six Yemeni nationals, A.A. and her five children (three daughters and two sons), who claimed that if deported from Sweden to Yemen they faced a real risk of being the victims of honour-related crimes in violation of Articles 2 and 3 of the Convention. The mother claimed asylum in Sweden on the basis that her husband had abused her for many years and she had been forcibly married when she was 14 years old. She had tried to obtain a divorce in Yemen but the judge had told her that she should solve her private problems with her husband. She had not contacted a lawyer because she had no money and had not reported the violence to the police because they did not interfere in family matters. The basis of her asylum claim was also that she had been forced to flee Yemen to protect her daughters. Her eldest daughter had been forced to marry a man when she was 14 years old and to subsequently leave school. A.A.'s husband had also planned to marry their second daughter to a much older man when she was only 13 years old. A.A. had attempted to stop the marriage but the courts had decided that her husband, as the head of the family, was entitled to take those decisions. A.A. feared that her husband would kill her if she returned to Yemen because she had dishonoured him by leaving the country with their children without his permission. A.A.'s second daughter confirmed her mother's claim and her first daughter provided more information about her living conditions with her husband when aged 14 where she was treated like a servant as her husband already had eight children and a disabled first wife. A.A.'s first daughter feared being killed by her father or her husband because she had left without his permission.

The Swedish Migration Board refused their asylum claims because they had not provided their passports or any other documents to prove their identity or to support their story. It also held that leaving the country without A.A.'s husband's consent was not sufficient to create a need for protection in Sweden and that A.A.'s clan could protect her from her husband. In relation to A.A.'s second daughter, the Board found that she could pay back her dowry to her husband in order to divorce him and thus that the problem was purely financial. Overall the Board concluded that the family's problems were related to financial matters rather than honour and therefore they should not be granted asylum.

The Applicants appealed the Board's decision to the Swedish Migration Court and submitted further evidence in support of their asylum claim. They argued that as well as disgracing their husbands and father they would also be perceived as having disgraced their clan, so would not benefit from the clan's protection. They submitted more information about honour crimes in Yemen, an arrest warrant that had been issued against A.A.'s two sons for having stolen money from their father and the

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<sup>18</sup> <http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-111553>.  
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children's original birth certificates. The Migration Court rejected their appeal because the general situation for women in Yemen was not a sufficient ground for them to be granted refugee status. The Court noted that "the reasons referred to by the applicants in support of their need for protection mainly concerned problems within the personal sphere caused, *inter alia*, by the country's traditions". The Court also found that the applicants had not turned to the authorities to obtain protection against A.A.'s husband or the eldest daughter's husband and the sons could easily prove that they were innocent of stealing their father's money as they had been in Sweden at the time of the alleged offence. One of the judges dissented.

Despite the applicants' credibility not being challenged during the domestic proceedings, the Swedish government considered that "there were shortcomings and inconsistencies in the applicants' statements in essential parts which gave reason to question their general credibility". The government conceded that there was a lack of state protection from the Yemeni authorities so the issues were risk of "honour" crimes on return and internal relocation.

The European Court of Human Rights found that there were "no indications that the proceedings before the domestic authorities lacked effective guarantees to protect the applicants against arbitrary *refoulement* or were otherwise flawed" despite there being some disputes between the parties about some facts of the case and noted that the Swedish authorities had concluded that there was insufficient information submitted to show that the applicants were in need of international protection. The Court concluded that the applicants would not be at risk from their clan because they had not received any threats from them and when previously asking them for support, the clan had told A.A. to seek redress in the Yemeni court. The Court agreed with the Swedish government's submissions that A.A.'s sons could easily prove that the alleged crime they had committed was unsubstantiated as they were in Sweden at the time. The two sons had therefore not shown that they were at risk of treatment contrary to Article 3 ECHR if they were returned to Yemen.

In respect of the risk to A.A. from her husband, the Court considered that there were reasons to question the authenticity of the alleged court record according to which her husband had requested that the applicants were returned home. The reasons for doubting its authenticity were that it had been obtained only weeks after its issuance, that it was dated two months after the final decision of the Migration Court of Appeal and A.A. had offered no explanation as to why her husband would wait almost three years after their departure from Yemen before reporting their absence to the court. Thus the European Court concluded that A.A.'s husband was not a risk to the applicants. The Court also concluded that A.A. and her three daughters would be returned with A.A.'s now adult sons who would provide a social network and protect them from any potential harm from their father. The implementation of the deportation order against the applicants by the Swedish authorities would not give rise to a violation of Articles 2 or 3 of the Convention.

The dissenting opinion of Judge Power-Forde found that there would be a violation of Articles 2 and 3 of the Convention in respect of A.A. and her three daughters. The Judge noted that the Swedish Board of Migration which met with and interviewed A.A. and her eldest daughter, then a 12-year-old child, did not question their credibility or the overall authenticity of their history. The Judge thus saw no reason for departing from this and considered A.A.'s account of gender-based violence and forced child marriage to be true. The Judge concluded that gender-based violence amounted to ill-treatment contrary to Article 3 ECHR and that the Yemeni authorities would fail to take protective measures against domestic violence and child marriage. The Judge criticised the Migration Board's findings that the family's problems were financial, concerned problems in the personal sphere and that the applicants should have sought protection from the domestic authorities before fleeing despite evidence that this protection would not be forthcoming.

## Court of Appeal allows appeal against Zimbabwe Country Guidance case

### JG & CM (Zimbabwe)<sup>19</sup>

An appeal in the Court of Appeal has resulted in the quashing of the Upper Tribunal's Country Guidance case on Zimbabwe (*EM & Others (Returnees) Zimbabwe CG*).<sup>20</sup> The appeal was allowed and the Court of Appeal ordered the Upper Tribunal's determination in *EM and Others* to be quashed and the matter remitted to the Upper Tribunal (Immigration and Asylum Chamber) to be re-determined. The appeal was allowed on four grounds: (i) on the basis that the Secretary of State for the Home Department had potentially failed to comply with her disclosure obligations; (ii) whether the Tribunal's approach to anonymous sources of information was wrong in law in light of the European Court of Human Rights' judgment in *Sufi and Elmi*;<sup>21</sup> (iii) whether the Tribunal was entitled to find a "well established evidentially and durable" material change since the Country Guidance case of *RN*,<sup>22</sup> and (iv) whether erroneous conclusions were reached in the applicants' cases.

The Secretary of State had delayed in disclosing information despite the Upper Tribunal directing disclosure of materials from the Foreign and Commonwealth Office (FCO) regarding its assessment of the political situation in Zimbabwe. This information was only disclosed during the proceedings before the Court of Appeal and some information was withheld by the Secretary of State on grounds of Public Interest Immunity. In addition, when it became apparent that there would be no appeal by the UK to the Grand Chamber of the European Court of Human Rights in *Sufi and Elmi*, the Court of Appeal also considered the impact of the judgment in *Sufi and Elmi* considering the weight to be placed on anonymous information contained in a Fact Finding Mission, in particular information provided not only by anonymous individuals but also anonymous organisations. This new evidence and a potential new test on how to approach anonymous information led the Court of Appeal to conclude that the Upper Tribunal might have erred in law when finding that "the combined effect of the evidential uncertainty of when elections may be called and what might happen when they are produces a picture that is too equivocal or obscure to amount to a real risk of future ill-treatment".<sup>23</sup> In other words, the Upper Tribunal did not have all the necessary evidence before it and potentially placed too much weight on the anonymous sources in the Fact Finding Mission report in order to correctly depart from the existing Country Guidance case of *RN* which concluded that those who were unable to show support for ZANU-PF would be at risk of persecution in Zimbabwe.

This judgment may have an important impact on the international protection entitlements of many asylum seekers from Zimbabwe in the UK.

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## National News

### House of Lords debate UK Border Agency: "*The Home Office should show leadership*"

The rights of women seeking asylum dominated a debate at the House of Lords in July, which was held to discuss the work of the UK Border Agency.

<sup>19</sup> The judgment is not yet published but the permission to appeal judgment is available here: <http://migrantslawproject.files.wordpress.com/2012/02/11-12-20-permission-decision.pdf>

<sup>20</sup> See Women's Asylum News, Issue 101, April 2011, pp. 4-6, [http://www.asylumaid.org.uk/data/files/publications/160/WAN\\_April\\_2011.pdf](http://www.asylumaid.org.uk/data/files/publications/160/WAN_April_2011.pdf).

<sup>21</sup> Case of Sufi and Elmi v. the United Kingdom, Application No. 8319/07 and 11449/07, 28 June 2011, <http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-105434>.

<sup>22</sup> RN (Returnees) Zimbabwe CG [2008] UKAIT 00083, <http://www.bailii.org/uk/cases/UKIAT/2008/00083.html>.

<sup>23</sup> EM and Others(Returnees)Zimbabwe CG [2011] UKUT 00098, para. 264, [http://www.bailii.org/uk/cases/UKUT/IAC/2011/00098\\_ukut\\_iac\\_2011\\_em\\_ors\\_zimbabwe\\_cg.html](http://www.bailii.org/uk/cases/UKUT/IAC/2011/00098_ukut_iac_2011_em_ors_zimbabwe_cg.html).

The debate was called for by Lord Avebury, who has campaigned for decades to improve human rights across the world. Lord Avebury opened proceedings by quoting one of the UKBA's own officials – who had described the Agency as “falling apart at the seams” – and demanded that the government take responsibility for an immigration and asylum system which repeatedly undermined the rights of the people who turned to it for help.

Drawing attention to recent research, including Asylum Aid's report *Gender-related asylum claims in Europe*, Lord Avebury talked about the failings in the asylum process which hit women disproportionately hard, and emphasised the enduring poor quality of decisions:

*The treatment of women in the asylum system is raised by Women for Refugee Women and in a recent report for Asylum Aid on gender-related claims in the EU member states, including the UK. Asylum Aid says that although we are often in advance of other EU countries, the UKBA rarely refers to the UNHCR gender guidelines, and practice by the courts is variable. [...] That review uncovered faults in the decision-making process, such as a lack of investigation in cases involving domestic violence and whether an applicant's gender would affect her ability to seek state protection. According to Asylum Aid, our own guidelines are not well implemented and they do not include important procedural aspects that are found in the UNHCR gender guidelines.*

Other peers joined Lord Avebury to raise their concerns about the way women are treated when they seek asylum. Lord Dholakia pointed out that accounts of persecution suffered by women were particularly likely to be dismissed by the UKBA, and insisted that “in order to improve in particular the quality of asylum decision-making, the Home Office should show leadership on the importance of breaking down the culture of disbelief, which is particularly obvious in the treatment of women”.

And the need for gender-sensitive reforms was also a concern for long-standing campaigner Baroness Shirley Williams, who attacked the UKBA for its

*complete failure to recognise the special position of women in a world where, tragically, rape has become a weapon of war. [...] Far from disappearing, it has become ever more significant, yet when a woman comes to this country as an asylum seeker, claiming that she has been abused and raped, her case is very often dismissed.*

It has also long been argued that women who flee from gender-based violence can present some of the most complex asylum claims of all, so it was welcome to hear Lord Hylton make the case for providing better legal advice at the front end of the asylum system. Referring to evidence produced after a pilot scheme in Solihull, he said:

*The results have been fewer appeals against initial decisions and a reduction in the level of successful appeals. Public trust in the system has been increased in this single region. Absconding has also been reduced. It appears that the UKBA is starting to do some things right, whatever its failings may be on other fronts.*

There remains a pressing need to build a far more compassionate asylum system. Parliamentary pressure is invaluable in this, and hopefully this debate will be a key contribution.

To read the full Hansard debate, see:

<http://www.publications.parliament.uk/pa/ld201213/ldhansrd/text/120719-0002.htm#12071967000368>.



## International News

### Afghanistan: Women's rights advances may be jeopardised

When Mumtaz's father refused the offer by a middle aged man with links to the local militia to marry her daughter, the scorned man decided that no other man could have her either. The man beat Mumtaz's father, sprayed acid on her mother and three sisters and emptied a bucket of acid over her face. She is now being cared for by a women's shelter in Kabul. Concerns remain that women's rights continue to be endangered in Afghanistan. Support to women's shelters for example is precarious and women's rights abuses such as domestic violence and forced marriages are the norm. The few advances made by women's rights organisations may be lost if the Taliban re-enter the political scene. In February 2011, the Afghan President Hamid Karzai attempted to bring the shelters under government control due to pressure from conservative voices in his government. The proposal would have required women to obtain government approval and virginity tests before accessing the services provided by the shelters. The proposal was abandoned after significant international pressure. Non-governmental organisations are fearful that if the government negotiates with the Taliban, the small advances made in women's rights in the last ten years will be lost.

For the full article, see: <http://www.rferl.org/content/afghanistan-womens-shelters-uncertain-future/24653459.html>.

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### Central America: Lack of access to justice still prevalent for victims of sexual violence

In Central America and southern Mexico, women still struggle to access justice when they have been the victims of sexual violence despite the high rate of rape and sexual violence. Overall, there are very low prosecution rates in the region and the reasons for this are multiple. These include the reluctance of victims to report sexual violence due to shame or fear, the lack of action by the authorities and inequality between men and women. Most victims are minors and experts say there is a need for improved access to information, education and justice. These findings are outlined in the report "Access to Justice for Women Victims of Sexual Violence in Mesoamerica" published by the Inter-American Commission on Human Rights (IACHR) in 2011.<sup>24</sup> There have been some improvements however, including the adoption of laws to tackle violence against women and the setting-up of new justice systems institutions with a gender perspective. The IACHR rapporteur on the Rights of Women said that the main concerns relate to girls who are particularly at risk and poor women who live in rural areas because they simply cannot afford to travel to where legal services are provided. And despite improved coordination of law enforcements efforts between the police, prosecutor and judges, there is a real lack of funding and social tolerance for violence against women which results in little support for victims and investigations.

For the full article, see: <http://www.ipsnews.net/2012/06/central-america-still-a-long-way-to-go-in-fight-against-sexual-violence/>.

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### Kyrgyzstan: Marital rape not taken seriously by officials

The recent case of the wife of a secret intelligence officer who was raped by her husband has highlighted the plight of numerous women in Kyrgyzstan. She is one of the few women to have

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<sup>24</sup> <http://www.indh.cl/wp-content/uploads/2011/12/MESOAMERICA%202011%20ESP%20FINAL.pdf>.  
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pressed charges against her husband and refused to withdraw her complaint in light of the pressures she has experienced. Women's rights activists have noted that hospitals do not stock rape kits to collect evidence making it more difficult to prosecute rape cases and the manner in which the officer's wife was treated in court proceedings are some of the reasons why victims do not report marital rape. Victims are required to repeat their stories numerous times in court and are often disbelieved. Culturally they are perceived to have betrayed their own and have dishonoured their families. Activists say that lax prosecution and law enforcement contributes to maintaining the daily violence and the lack of response by communities to the phenomenon. In 2010, the United Nations special rapporteur on violence against women concluded that poverty in Kyrgyzstan was increasing gender inequality and leading "to a return to traditionalism and patriarchy where women view and depend on the family as the centre of their life and adopt a position of obedience and submissiveness". The head of the Chance Crisis Centre in Bishkek says that in 20 years of working with battered women, she has never seen a single case of marital rape being prosecuted as a crime as no officials recognise it as such.

For the full article, see: <http://www.ipsnews.net/2012/07/kyrgyzstan-rape-trial-spotlights-womens-plight/>.

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## **Philippines: Sharp increase in gender-based violence**

The last five years have seen a steep rise in the number of gender-based violence cases. The year 2011 saw a 150% increase in reported cases from 2006. A National Demographic Health Survey from 2008 estimated that one in five Filipino women between the ages of 15 and 49 had experienced physical violence and the World Health organisation highlighted the level of sexual violence in the Philippines as "a serious cause of concern". Some suggest the increase in reported cases is due to greater awareness of the laws intended to protect women. Despite some gender-sensitive measures to encourage women to report incidents of violence and the establishment of Women and Children Protection Centres there are still significant challenges, including a shortage of police staff to handle complaints. Problems with statistical data gathering have meant that the number of successful prosecutions cannot be monitored. In 2009, Amnesty International concluded that an obstacle in reporting abuse was often the long distance between a woman's village and the police station. In response the roll-out of violence against women desks in every *barangay* (smallest government unit) is underway. However, many people in the Philippines remain sceptical about the potential impact of these operational and legislative changes because violence against women is still largely accepted and tolerated in Filipino culture.

For the full article, see: <http://www.irinnews.org/Report/95549/PHILIPPINES-Steep-rise-in-gender-based-violence>.

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## **West Africa: Rise in domestic violence due to years of conflict**

The International Rescue Committee (IRC) has said that husbands often pose a greater threat to women's lives than armed conflict in West Africa. In particular, domestic violence is not well documented in the region. The IRC conducted a study in post-conflict Ivory Coast, Liberia and Sierra Leone and found that women suffer from domestic violence with "shocking frequency". The report entitled "Let me not die before my time: Domestic violence in West Africa" notes that the focus of humanitarian support has generally focussed on armed groups without taking into consideration that the primary threat to women in those countries come from their husbands. The three countries are emerging from conflicts that killed thousands of people and displaced hundreds of thousands more and as a result of the breakdown of law and order domestic violence has increased even in post-conflict societies.

For the full article, see: <http://www.irinnews.org/Report/95788/WEST-AFRICA-Husbands-worse-threat-to-women-than-gunmen>.

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## New Publications

### ***Refused: the experiences of women denied asylum in the UK***

#### **Women for Refugee Women, May 2012**

*Refused*, a new report by the charity Women for Refugee Women, was published at the end of May. Based on interviews with 72 women who have claimed asylum in the UK, it looks in detail at the situations that forced these women to flee their homes and at their experiences once in the UK.

From this sample, the findings include:

#### *Overseas*

- 49% had been arrested or imprisoned in their home country
- 52% had experienced violence from soldiers, police or prison guards
- 32% had been raped by soldiers, police or prison guards and 21% had been raped by their husband, a family member or someone else
- In total, 66% had experienced some kind of gender-based persecution and 48% had experienced rape

#### *In UK*

- Of the 70 women who disclosed the outcome of their asylum application, 67 had been refused
- 75% of those refused said that the UK Border Agency had disbelieved them
- 25% of women had been held in immigration detention
- 67% had been left destitute, of whom 96% had been forced to rely on charities and 56% had been forced to sleep on the streets
- 16% had experienced sexual violence while destitute
- 97% of those women refused asylum said it had made them depressed. 93% said they were scared. 63% said they had thought about killing themselves

*Refused* calls for an immediate improvement in the quality of asylum decisions made by the UK Border Agency, and new training and guidance for judges hearing appeals involving victims of gender-related persecution. It calls for ensuring that asylum seekers have access to high quality free legal advice, and for the right to work for asylum seekers who cannot be removed from the UK through no fault of their own.

The report was launched at the House of Lords, and can be downloaded from <http://www.refugeewomen.com/images/refused.pdf>. An article about the report's findings by its author, Natasha Walter, was published in the Guardian and can be read at <http://www.guardian.co.uk/commentisfree/2012/may/29/women-refugee-statistics>. Asylum Aid's reflections on this report, and the treatment of women seeking asylum across Europe, can be read at <http://www.leftfootforward.org/2012/05/women-seeking-asylum-report/>

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## ***All Change: Preventing Trafficking in the UK***

**The Anti Trafficking Monitoring Group, April 2012**

This research reports identifies some preventative activities implemented across the UK and some areas of good practice, in particular at regional and local levels. However, the research concludes that there is an overall lack of a comprehensive prevention strategy. Thus the prevention stream of the Prevention/Protection/Prosecution is the weakest within the UK anti-trafficking framework. This is due to the limited understanding of the concept of prevention in the context of trafficking in human beings, the absence of a coherent prevention strategy and the fragmented coordination of anti-trafficking efforts overall. Overall, the report found that two and half years after the Convention's entry into force in the UK, there is a lack of clarity on how sustained trafficking prevention has been built into the UK's anti-trafficking efforts on a strategic level. It also found that anti-trafficking policy in the UK placed undue emphasis on law enforcement and immigration control. This is in stark contrast to internationally recognised best practice principle that preventing trafficking and re-trafficking can only be effective if enforcement efforts are combined with other measures that address the causes of trafficking. The report identifies the key weaknesses in the UK's anti-trafficking strategy as the absence of systematic evaluation of the impact of prevention measures and a lack of oversight of anti-trafficking efforts.

For the full report, see:

[http://www.antislavery.org/includes/documents/cm\\_docs/2012/a/atmg\\_all\\_change\\_prevention.pdf](http://www.antislavery.org/includes/documents/cm_docs/2012/a/atmg_all_change_prevention.pdf).

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## ***Burmese Refugee Women and the Gendered Politics of Exile, Reconstruction and Human Rights***

**S. Kumari, Centre for Non-Traditional Security Studies, S. Rajaratnam School of International Studies, 2012**

The abstract of this paper explains that "this research paper examines the predicament of Burmese women refugees in India and explores the complexities of the female refugee experience. Combining theoretical perspectives with personal narratives and oral histories, this paper provides a view of the struggles faced by refugee women as both victims of circumstances and agents of regeneration. More significantly, the case of Burmese refugee women challenges traditional stereotypes and gendered binary constructions of victimhood associated with the refugee experience. Their participation in community-based refugee organisations and the larger women's rights movement has provided refugee women with new scope for action, activism, social interconnectedness, cultural nationalism, transnational linkages, and economic and political mobilisation".

For the full report, see: [http://www.rsis.edu.sg/nts/HTML-Newsletter/Report/pdf/NTS-Asia\\_SheenaK.pdf](http://www.rsis.edu.sg/nts/HTML-Newsletter/Report/pdf/NTS-Asia_SheenaK.pdf).

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## **UK Training and Events**

### **Working with Separated Children in the Asylum System**

**Refugee Council Conference**

**Date:** 10 October 2012

**Time:** 10.00 (registration from 9.30) – 17.00

**Venue:** KPMG, Canary Wharf, London

The Refugee Council's annual conference '**Working with separated children in the asylum system**' will be held on October 10th 2012 in London. The conference will combine guest speakers and practical expert sessions, ensuring the conference is relevant, informative and practical.

**Speakers include:**

**Lisa Killham, UKBA Childrens Champion** - 'UKBA's approach to children – overview and future plans'

**A young person** - The experience of being a separated child in the system

**Nadine Finch, Barrister, Garden Court Chambers** - will present key findings and recommendations from forthcoming UNHCR /UNICEF guidance on the best interests of children

**Nev Jeffries, British Red Cross, Head International Tracing and Message Services** - How to help children restore links with family whilst ensuring their safety.

**Prof Ravi Kohli, Prof of Child Welfare, University of Bedfordshire** - final speaker of the day, theme to be confirmed

**Fees:**

Standard rate (local authority, business and statutory) £195 (plus VAT = £234)

Reduced rate (for registered charities) £130 (plus VAT = £156)

RCO rate (subject to availability) £45 (plus VAT = £54)

Download the booking form from:

<http://www.refugeecouncil.org.uk/eventsandtraining/conferences/2012Conference>.

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## Trafficking Awareness Training

Manchester: 6 and 7 September

London: 13 and 14 September

Norwich: 4 and 11 October

Bristol: 26 October and 2 November

Sheffield: 8 and 9 November

The Poppy Project is running a series of training events for statutory and non-statutory agencies to enhance awareness of adult human trafficking with a focus on supporting female victims, including identification, victim care, supporting victims through immigration and criminal justice proceedings and the right to compensation.

**Who should attend?**

Anyone in the statutory, voluntary or community sectors that may be coming into contact with female victims of trafficking, including women's organisations, housing and support services, asylum seeker support services, social services and community safety groups.

For further information please contact Sally Montier: [sally.montier@eavesforwomen.org.uk](mailto:sally.montier@eavesforwomen.org.uk) or go to the <http://www.eavesforwomen.org.uk/news-events/events/poppy-training-20120518>.

## *Charter of rights of women seeking asylum*



**Endorsements: 195**

**Google group membership: 156**

### **Women and Girl Refugees**

It was extraordinary to see the range of people at the Women and Girl Refugees workshop by Hillingdon Women's Centre, Refugees in Effective and Active Partnership (REAP) and the local Refugee Children Network on 29<sup>th</sup> June. In the room were people with 50 years experience to those with just 2 or 3 years. Individual refugees and others who had lived securely all their lives mingled; refugee organisation leaders talked intently with feminists, LGBTI and pan-equality campaigners; statutory workers from across the NHS and Council social workers, cohesion staff, librarians shared opinions with voluntary sector DV counsellors, mental health campaigners, academics, legal workers, youth workers, asylum and refugee support bodies. Many present came to gain basic understanding of refugee issues, where others had been handling asylum claims or counselling post-trauma for decades; many had just basic insights into the impact of gender on girls as they grow into womanhood and fuelled animated debates with questions and challenges from project work; others could draw inspiration from campaigns and arguments going back to the 70s. Direct input from Positive about Disability, Asylum Aid/Women's Asylum Charter, UKLGIG, Sahan (Somali Women), Hillingdon Women's Centre, REAP, Afghan Women's Group and 12 contributors in 3 workshops led discussion.

Some conclusions were surprising, others less so: Refugee women and girls find many 'friends' within support structures, but there is a general lack of understanding in most voluntary and statutory bodies. Women and girls will probably always be vulnerable to aggression and abuse, but support is improving and change happens, step by step, often because of what individuals do within their own organisations. Knowledge is fragmented by cuts and redundancies, but counter-balanced by the strong desire to learn, share and connect. In response to participants' requests organisers will act to increase local interaction and evidence, specific training, wider knowledge of services and projects available to support women and girl refugees including a possible E-info system and future events as a seedbed for new joint actions in West London.

For more information on the Charter and the Every Single Woman campaign, please go to [www.asylumaid.org.uk/charter](http://www.asylumaid.org.uk/charter).

If your organisation would like to endorse the charter, please send an email simply stating the name of your organisation to [charter@asylumaid.org.uk](mailto:charter@asylumaid.org.uk).

She was detained without charge

Nobody believed her story and no-one spoke up for her

Her family and friends didn't know where she was

**Afraid...isolated...**

She had no idea what would happen to her next

**And that was after she sought asylum in the UK**

Our asylum system is now so tough that, all too often, this is how people seeking help are treated. And that can't be right.

We believe the system should be fair and just and that every asylum seeker should have legal help to make their case - only then can we say in good conscience 'let the law take its course'.

Asylum Aid is an independent, national charity that secures protection for people seeking refuge in the UK from persecution in their home countries.

We provide expert legal representation to asylum seekers and campaign for a fair and just asylum system. Founded in 1990, we have since helped 30,000 people to get a fair hearing. In 2009 85% of our clients were granted leave to stay in the UK when decisions were made on their claims for protection.

**Please support us**

**Your donation will safeguard our independence and enable us to stand up for fair asylum rights without fear or favour.**

You can make a donation via our website:  
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[www.asylumaid.org.uk](http://www.asylumaid.org.uk)

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Produced by the Women's Project at Asylum Aid  
(for more information on this issue, please contact: Christel Querton)

Asylum Aid  
Club Union House  
253-254 Upper Street  
London N1 1RY

Tel: 020 7354 9631  
Fax: 020 7354 5620  
Email: [womenasylumnews@asylumaid.org.uk](mailto:womenasylumnews@asylumaid.org.uk)

[www.asylumaid.org.uk](http://www.asylumaid.org.uk)

