

Issue 119
October / November 2013



Women's Asylum News

Women's Project at Asylum Aid

IN THIS ISSUE

Lead article: *How we changed the law* pp. 1-4
Sector update: pp. 4-5
Legal issues: pp. 5-8
National news: pp. 8-10
International news: pp. 11-12
New publications, training and events: p. 13
Charter update: p. 14

To subscribe send your details to:
womenasylumnews@asylumaid.org.uk

All Asylum Aid publications are
available at: www.asylumaid.org.uk

Please forward any information
that you would like to include in
the next edition of WAN to
womenasylumnews@asylumaid.org.uk

How We Changed the Law: the Context and History of Women's Asylum Claims in the U.S.

Deborah Anker, Harvard University

The recognition of gender-based asylum claims has not only had an extraordinary effect on women refugee claimants over the past thirty years, but it has also transformed refugee law both in the United States and among many other signatories to the 1951 Refugee Convention.

When we think of legal change, we usually think of change from the top down, changes that result from high court decisions or new statutes. But the development of gender asylum in the United States tells a different story. In the United States, the recognition of gender-based asylum claims originated principally in relatively non-normative instruments including gender asylum guidelines, policy guidance, training material, and decisions by low-level adjudicators.

This article demonstrates how, by bringing individual cases on a large scale (as well as other advocacy) and presenting arguments grounded in traditionally non-normative sources, our Clinic and other similar advocates changed the thinking of adjudicators and relevant institutional cultures, laying the foundation for changes at higher administrative and federal court levels. Change came from the bottom up.

The foundation for our current understanding of the Refugee Convention ground of Particular Social Group (PSG) as embracing gender is based on a Board of Immigration Appeals' (hereafter the Board) decision. *Matter of Acosta* (1985) defines PSG in an "immutability" framework.¹ In *Acosta*, the Board specifically names sex as a quintessential immutable characteristic. Our clinic and other immigration professors and law clinics engaged in

¹ *Matter of Acosta*, 19 I. & N. Dec. 211 (B.I.A. 1985), *overruled in part on other grounds by Matter of Mogharrabi*, 19 I. & N. Dec. 439 (B.I.A. 1987).

individual representation argued that immutable characteristics included sex and that therefore gender could define a PSG. Before this advocacy, the Board and other immigration adjudications did not even pay lip service to *Acosta* reasoning in gender cases. When the Board issued a decision in the case of *D-V-* in 1993, granting asylum to a Haitian woman who had been gang raped and beaten in her home by members of the Haitian military because of her support for Aristide, the decision was not published as precedent. However, organizing together we argued successfully to have the *D-V-* decision established as precedent.²

In 1995, our Clinic joined with the Center for Constitutional Rights, MADRE and the City of New York law school clinic to interview and gather affidavits from women in Haiti and who had fled from Haiti, who were being systematically raped and beaten in retaliation for their actual and presumed political beliefs. We submitted a report to the Inter-American Commission on Human Rights, which then recognized that rape constitutes torture, even outside the state detention context. This was the first recognition of rape as torture by an international human rights body.³

In the same year, 1995, the U.S. became the second country after Canada to issue gender asylum guidelines - which we drafted.⁴

A ground-breaking published Board decision in 1996, *Matter of Kasinga*, recognized Female Genital Mutilation (FGM) as a basis for an asylum claim.⁵ But since *Kasinga*, PSGs in gender based cases are too often constructed as gender plus another factor, such as victimization, the harm suffered, or another ground, i.e., political opinion. Our Clinic, working in collaboration with others, has been at the forefront of pushing for the recognition of gender as the relevant PSG in these types of cases, by publishing articles, writing amicus briefs, training asylum officers, and bringing cases in which, we argue, gender is the defining characteristic of the PSG.

In 1993, the federal circuit court decision *Fatin v. INS* in which we filed an amicus or friend of the court brief), in addition to noting that gender could define a PSG, acknowledged that feminism could constitute a political opinion.⁶ Building on *Fatin* we and others developed the argument that feminism can constitute a political opinion, and feminism includes resistance to such practices as FGM and domestic violence.

In 1999 the Board's precedent decision in *Matter of R-A-* complicated the landscape. The Board denied asylum to a Guatemalan woman fleeing a very violently abusive relationship.⁷ The brief submitted by the Department of Homeland Security (DHS) in 2004 recommended an asylum grant to the applicant in *R-A-* and defined PSG as married women who are unable to leave the relationship.⁸ For 10 years, however, the case of *R-A-* was left undecided.

² *Matter of D-V-*, 21 I. & N. Dec. 77 (B.I.A. 1993).

³ Deborah E. Anker, *Refugee Law, Gender, and the Human Rights Paradigm*, 15 Harv. Hum. Rts. J. 133 (2002).

⁴ Phyllis Coven, INS Office of International Affairs, *Considerations for Asylum Officers Adjudicating Asylum Claims from Women*, Memorandum to INS Asylum Officers, Coordinators (Washington, DC, May 26, 1995), available at <http://www.unhcr.org/refworld/docid/3ae6b31e7.html>.

⁵ *Matter of Kasinga*, 21 I. & N. Dec. 357 (B.I.A. 1996).

⁶ *Fatin v. I.N.S.*, 12 F.3d 1233, 1241 (3d Cir. 1993).

⁷ *Matter of R-A-*, 22 I. & N. Dec. 906 (B.I.A. 1999), *vacated and remanded*, 22 I. & N. Dec. 906 (A.G. 2001) 65 Fed. Reg. 76588-01) *remanded*, 23 I. & N. Dec. 694 (A.G. 2005), *remanded*, 24 I. & N. Dec. 629 (A.G. 2008), *remanded to immigration judge* Dec. 2009 (asylum granted).

⁸ Department of Homeland Security Supplemental Brief (Feb. 19, 2004), submitted in *Matter of R-A-*, available at http://cgrs.uchastings.edu/documents/legal/dhs_brief_ra.pdf.

During this period, we kept bringing many individual cases, based on both gender as a PSG and feminism as a political opinion, among other grounds. We and others argued that the position articulated by the DHS in *R-A-* reflected the government's understanding of PSG, and was an expression of agency policy, and asked adjudicators to adopt this understanding.

Despite the standstill at a formal level, we along with others were winning these cases and helping to shape the development of the law at the lower levels, in front of the Asylum Office (DHS' informal adjudicatory body) and before immigration judges in more formal proceedings.

While the issue of gender as a PSG was on hold because of *Matter of R-A-*, we focused on developing the political opinion theory in domestic violence cases in parallel. Decision makers at the lower levels increasingly recognized that resistance to domestic violence through refusal to follow the spouse's orders, through attempts to escape, and ultimately flight constituted the expression of a political opinion.⁹ As we and others brought more of these claims, adjudicators increasingly started recognizing their political nature and we saw the political opinion ground develop to include women's beliefs in equal treatment and opposition to domestic violence. Paradoxically, the difficulties with gender as a PSG led to the flowering of the political opinion ground in gender-based domestic violence cases.

Finally in 2009, the Board quietly remanded the case of *Matter of R-A-* to the Immigration Judge who was instructed to grant asylum but again without a decision in the case that was precedential.¹⁰ We were simply left with the fact that the case was granted, but with no explanation for its grant.

In 2009, the DHS brief in *Matter of L-R-* defined PSG in terms of "Mexican women in domestic relationships who are unable to leave," and "Mexican women who are viewed as property by virtue of their positions within a domestic relationship" and recommended an asylum grant.¹¹ The case was remanded and the immigration judge granted asylum in 2010, but again without a written or precedential decision from the Board of Immigration Appeals.¹²

Advocates who had used the DHS brief in *Matter of R-A-* also started using the brief in *L-R-* in court to argue for recognition of gender claims in domestic violence cases. But they still faced opposition. In one case, DHS issued a written clarification, which stated that "DHS has always maintained that domestic violence can be the basis for asylum" (the clarification was then slightly revised to state that "as a general matter the Department continues to maintain that victims of domestic violence can qualify for asylum").¹³ We disseminated this clarification so that advocates and scholars could use it to support their arguments in gender asylum cases, and this written clarification¹⁴ is now cited in a leading immigration law case book as recognition that domestic violence is a basis for asylum and gender defining a PSG, and is increasingly recognized by some lower level decision makers and some federal courts. This

⁹ See Deborah E. Anker, *Law of Asylum in the United States 2013 Edition*, § 5:40 (Thomson Reuter).

¹⁰ See Statement of Senator Leahy, describing, *inter alia*, granting of asylum by the immigration judge in December, 2009, available at <http://www.leahy.senate.gov/press/leahy-praises-resolution-in-alvarado-asylum-case-pushes-administration-to-issue-regulations>.

¹¹ Department of Homeland Security Supplemental Brief (Apr. 13, 2009), submitted in *Matter of L-R-*, available at <http://cgrs.uchastings.edu/pdfs/Redacted%20DHS%20brief%20on%20PSG.pdf>.

¹² *Matter of L-R-*, granted by immigration judge on Aug. 4, 2010.

¹³ DHS, *Written Clarification Regarding the Definition of "Particular Social Group,"* submitted to the Executive Office for Immigration Review, L.A. California (Jul. 13, 2010).

¹⁴ See, e.g., *Mohammed v Gonzales*, 400 F.3d 785, 797 (9th Cir. 2005).

shows how with advocacy even a single statement in a single case, can have persuasive power in other cases, and result in changing patterns of decision-makers.

We have won victories before asylum officers, immigration judges, even at the Board and in federal courts, but we have not received a solid precedential decision. In Autumn 2011, and again in 2012, the Board asked us for amicus briefing on the question of whether domestic violence can be the basis of an asylum claim. We are cautiously optimistic about the Board decision. The ground has shifted. Asylum claims based on domestic violence are being consistently filed and won, case by case.

The traditional story of law is one of litigation or major legislation first, that then opens the door for change at the ground level. But ours is a ground up story. We now have a deep tradition of recognizing gender-based persecution and gender-based asylum claims in the US, and this transformation of the law was brought about by representation of individual clients, advocacy on the ground with NGOs, people in government and women in the media, who highlighted issues of fairness and equality that are central to properly understanding the treatment of gender asylum claims.

*Deborah Anker is Clinical Professor of Law
and Director of the Immigration and Refugee Clinical Program at Harvard Law School*

Sector Update

UK examined by UN Committee on Women

In July 2013 the UK Government was examined by the [UN CEDAW Committee](#) in Geneva (CEDAW is the [UN Convention on the Elimination of all Forms of Discrimination Against Women](#)). They were presented with the [7th periodic report of the United Kingdom](#) by the UK Government and also with shadow reports from civil society. The Women's Asylum Charter coordinated and contributed information that was incorporated into the two key shadow reports.

The [shadow report coordinated by the Women's Resource Centre](#) included a range of asylum specific issues such as the importance of implementing the asylum gender guidelines, incorporating issues of women seeking asylum in the Government's strategy to end violence against women and girls and provision of child care during the asylum process as well as the need for gender sensitive and safe accommodation for women. The [submission by the Equalities and Human Rights Commission](#) mentioned the UK's practice on asylum failing to recognise the needs of women coming from abroad seeking asylum from violence against women and that the provision of health care and basic welfare for pregnant and lactating failed asylum seekers falls below the standard required by Article 12 of CEDAW.

The examination of the UK Government took place on 17 July. The CEDAW Committee produced its [concluding observations](#) which include detailed recommendations on 26 July 2013. The recommendations which are relevant to women seeking asylum focus on gender sensitive approaches by immigration authorities, trafficking, health care and legal aid.

The Committee raises concerns at reports of lack of gender sensitive approaches by immigration authorities towards women who are victims of violence and urges the UK to continue to provide training to officers who are in charge of immigration and asylum applications on gender sensitive approaches in the treatment of victims of violence (para 58 – 59).

In relation to trafficking, the Committee is concerned at the alleged weakness of the National Referral Mechanism (NRM) in identifying victims of trafficking and the lack of adequate support provided to them and urges the UK to identify any weaknesses in the NRM and ensure that victims of trafficking are properly identified and adequately supported and protected (para 38 – 39). The Committee is also concerned at reports of an increase in the number of trafficked women in prison and urges the UK to ensure that authorities, including prison staff, are able to recognise women who may have been trafficked to avoid their criminalisation, and to provide adequate services for their integration into society (para 54 – 55).

The Committee recommends that the UK strengthen the implementation of programmes and policies aimed at providing effective access for women to health care particularly to women with disabilities, older women, asylum seeking and Traveller women (para 52 – 53). The Committee remains concerned that under the “no recourse to public funds” policy women with insecure immigration status still have no access to State support and recommends that the concession be extended to all women who are subject to gender based violence and exploitation. It also recommends the provision of access to justice and health care to all women with insecure immigration status, including asylum seekers, until their return to their countries of origin (para 56 – 57).

The Committee is concerned that the Legal Aid, Sentencing and Punishment of Offenders Act of 2012 conditions legal aid upon proof of abuse for victims of violence and that a proposed residency test is under consultation. It recommends that the UK continuously assess the impact of the reforms to legal aid on the protection of women’s rights (para 22 - 23).

The UK will be expected to report back on all the recommendations when it is examined by the CEDAW Committee in four years’ time (except for the recommendation on legal aid for which the UK must report back in two years’ time). In the meantime it is for civil society to use the recommendations to promote the issues they have concerns about.

Significant Legal Issues

R (Atamewan) v. Secretary of State for the Home Department [2013] EWHC 2727

In the most recent case in the increasingly litigated area of the UK’s obligations to victims of trafficking, the Court addressed the issue of whether the Home Office policy guidance on the application of the UK’s obligation under the Council of Europe Convention on Action against Trafficking in Human Beings (CAT) had misinterpreted the CAT. It further considered what relief should be granted to the Claimant who had already been removed from the UK.

The Claimant (C) was a Nigerian national. She arrived in the UK on March 2005 still a child, having been trafficked into the UK for the purposes of domestic servitude by her initial

trafficker's daughter, (B). Whilst working for B in conditions of domestic servitude she also suffered physical abuse. Prior to being trafficked to the UK for the purposes of exploitation, C had a history of being subjected to domestic servitude, violent abuse and rape. After enduring over three years of exploitation in the UK by B, she ran away around December 2007.

C had been warned by B not to report her situation to the police or they would send her back to Nigeria. Fearful of her fate on return, she did not therefore contact the police. C was of no fixed bode for 3 years and survived by taking informal hairdressing and cooking jobs. Following legal advice, C claimed asylum on 07.01.11. The Home Office caseworker made a referral to the National Referral Mechanism (NRM).

The asylum claim was refused and certified, such that she had no in-country right of appeal. Whilst credibility was accepted, it was found that she did not have a well-founded fear of persecution on return based on any Convention ground. Further, it considered there was a sufficiency of protection in Nigeria and that internal flight alternative was a viable option should she be at risk of harm in her home area.

On 17.02.11, the NRM issued a negative decision based on the analysis of Reasonable Grounds. Whilst it was accepted that C had been brought to the UK for the purposes of domestic servitude, the decision-maker concluded that, following the SSHD 'Guidance to Competent Authorities' (version 2010), produced for caseworkers in order to give effect to the UK's implementation of the CAT, the applicant 'was no longer considered to be a victim of trafficking in need of protection under the Convention' as she had been out of the hands of her trafficker since December 2007, she had lived a reasonably normal life since then and had managed to find casual work to support herself.

Consequently, C was detained and removed back to Nigeria. Her legal representative pursued the Judicial Review action on her behalf. In October 2011 C reported the crime to the police via her legal representatives in the UK. However, the police concluded that they were not in a position to pursue a criminal investigation (para 19).

The Court held passages of SSHD's 2010 'Guidance to the Competent Authorities' misinterpreted Arts 4, 10(2) and 13(1) of the Trafficking Convention (CAT). Although admitting C had been a victim of trafficking, SSHD had concluded that C was no longer in need of the protection and assistance offered by CAT because her individual circumstances had changed significantly since the trafficking occurred and therefore did not classify as a trafficking victim. The Court ruled that this analysis should not have been done at the Reasonable Grounds stage (when performing victim identification), contrary to what the Guidelines indicate. This erroneous analysis resulted in SSDH treating 'historic victims of trafficking' as being excluded from the definition of Art. 4 CAT. Further, it found that individuals who had historically been trafficked were entitled to be identified as victims (Arts. 4 and 10 CAT), and protected against removal from its territory until the identification process of Article 18 (CAT) is completed and the person receives the assistance provided for in Article 12 paragraphs 1 and 2 (CAT). The nature and extent of the assistance is therefore a separate analysis, it may vary greatly between victims and should be based on an individual analysis. As a consequence, the NRM decision was unlawful.

The ruling addressed the issue of whether the NRM Decision was unlawful also because it concluded there was no evidence that a complaint had been made to the police or that there

was a police investigation. Analysing the lawfulness of the decision Aikens LJ commented on para 87

'...This conclusion contains an error of law on two bases. First, because once there are Reasonable Grounds for believing that the claimant has the status of a victim of trafficking, then, under Article 10(2) of CAT, **there is an obligation on a Party not to remove the person from the territory "until the identification process as victim of an offence provided for in Article 18" of CAT has been completed by the Competent Authorities.** Secondly, as Mr Eadie accepted, Article 27(1) expressly provides that investigations into or prosecution of offences established in accordance with CAT **"shall not be dependent upon the report or accusation made by a victim..."**. **The NRM Decision appears to assume exactly the opposite.** Although I accept Mr Eadie's point that the Guidance does not purport to transpose any duty under Article 27(1) to CAT to provide for the referral of a victim of trafficking's case to the police in circumstances where the police have not already been alerted, **it seems to me that a decision which is based, in part, on a failure to fulfil the positive obligation not to remove someone who has passed the "Reasonable Grounds" test and which decision is also contrary to the negative obligation set out in Article 27(1) of CAT cannot be regarded as lawful'** (emphasis added)

When considering the failure to investigate the crime, C was granted a declaration that her rights under Art 4 ECHR (prohibition of slavery) had been breached. Aikens LJ was clear that, as is now firmly established in case law, there is a positive duty on SSHD to carry out an effective investigation of the crime under its obligations enshrined in Article 4 ECHR. This being so, the fact that C had not herself made a complaint to the police was not a significant factor and weighted in the unlawfulness of the decision. On this regard, it took matters no further for the claimant as, it was clear that, when a report was made to the police, their position was that there were few steps that they could take to effectively investigate, even if C had remained in the UK.

As the removal of C from the UK had been inconsistent with the UK's obligations under Art 10(2) of CAT, a mandatory order was issued that the SSHD seek to return her to the UK and that she be granted 12 months' and one day's leave in order for her to take part in police investigations in her case. However, the challenge to the Certification of the asylum claim was dismissed.

This important decision builds upon a number of earlier trafficking cases considering the duties of the SSHD in safeguarding the rights of the victims of trafficking and, as with those earlier cases, is clear in its conclusions that the duties of the SSHD under the CAT are not to be lightly discharged.

Of particular importance is the explicit recognition that there is no obligation on a victim of trafficking to make a report to the police, rather the investigation is a positive obligation of the State under Article 4 ECHR. Additionally, the fact that a victim has not done so should not reasonably be used to conclude that she/he is not in need of protection under the CAT, nor should the fact that they have been considered "historical victims".

Further, the recognition that different victims of trafficking will have different support and protection needs such that a careful consideration tailored to the circumstances of each case is required by the SSHD in discharging her duties under the CAT, is to be welcomed.

Finally, it is worth noting that, whilst the Court did not rule on the interpretation of Directive 2011/36/EU on preventing and combatting trafficking in human beings and protecting its victims, which seeks to ensure protection against trafficking within the European Union, on the grounds that it had not come into effect at the time of the material facts in the appeal before it, we can expect the Court to address itself to the practical protection issues arising from this Directive in the not too distant future.

National News

House of Commons Debate: Pregnant Women in Detention

On Thursday 5th September, Conservative MP Richard Fuller introduced a [debate in parliament](#) on ending the detention of pregnant women in UK immigration detention centres.

This follows a report written by the charity [Medical Justice](#), and supported by 337 other charities and organisations under the Women's Asylum Charter, which provides clear evidence that the detention of pregnant women is both immoral and inefficient. The report states that pregnant women in detention centres do not have access to the appropriate medical care. A statement from the Director of Midwifery at the Royal College of Midwives states:

"The very process of being detained interrupts a woman's fundamental human right to access maternity care. The detention system makes it very difficult for midwives to put women at the centre of their care. We believe that the treatment of pregnant asylum seekers in detention is governed by outmoded and outdated practices that shame us all"

In the UK at present, 100 pregnant women are being held in detention centres. Following a court case in 2012, it became government policy that women who are pregnant can only be held in certain circumstances: when removal from the UK is imminent and when their removal is possible before the 28th week of pregnancy.

Mr Fuller pointed out that the cost of detaining a pregnant woman, at £700 per week, was far more than the cost of releasing her to the care of the community, £150 per week. He also discussed the potential harmful effects on deporting pregnant women to areas with high rates of malaria. In the UK, the NHS advises that pregnant women do not travel to areas with high rates of malaria as it is too dangerous.

Last year Her Majesty's Inspectorate of Prisons [concluded](#) that force should not be used on pregnant women in the process of removal from the UK. Fuller argued that the government's argument for detaining pregnant women is weak considering that only five out of one hundred pregnant women are ultimately removed from the UK.

Mr Mark Harper, the Minister for Immigration, asserted the government's opposition to a blanket ban on the detention of pregnant women, arguing: *"I do not want this to be an excuse that women who are not pregnant dream up in order to throw a legal obstacle in the way."*

Questions in the House of Lords – will pregnant women continue to be detained?

On 10th September, Lord Hylton [asked](#) the government:

What assessment they have made of (1) the effectiveness of detaining pregnant women, and (2) the views on that matter of the organisations which signed Asylum Aid's Charter of Rights of Women Seeking Asylum?

The Parliamentary Under-Secretary of State for the Home Office, Lord Taylor of Holbeach, answered:

Detention is a vital and effective tool in supporting the enforced return of persons with no lawful basis of stay in the UK who choose not to leave voluntarily. This applies equally to pregnant women.

Pregnant women are detained only in limited circumstances, where their removal is imminent and medical advice does not suggest their confinement before the due removal date. Pregnant women who are less than 24 weeks' pregnant may also be detained in the asylum Detained Fast Track process.

The recommendation in the Charter of Rights of Women Seeking Asylum that women who are at any stage of pregnancy or who are breastfeeding should not be detained was not accepted. That remains our position.

Allegations of sexual abuse at Yarl's Wood Detention Centre

The [Guardian](#), [Telegraph](#) and [Daily Mail](#) have all reported on recent allegations of sexual abuse by guards towards detainees at Yarl's Wood Detention Centre.

One woman told of abuse at the hands of SERCO guards, who run the centre and are said to have committed various acts of sexual assault and intimidation. The young woman, known as "Tanja", has reported that at least some of the sexual acts were done without consent.

The immigration detention centre has been the subject of media attention many times for various reasons, from the imprisonment of children to health and safety concerns after a fire broke out in 2002. Allegations of sexual abuse, however, have only been recently picked up, although a [previous report](#) commissioned in 2005 by Legal Action for Women alongside several women's charities mentioned complaints by women in the centre regarding the sexual behaviour of guards. Women report racism from staff (including being called "black monkeys") and sexual intimidation from guards. One woman reported male staff walking into her room unannounced when she was naked.

Women facing deportation may be particularly vulnerable to sexual abuse; many have already faced violence, torture, rape and abuse in their countries of origin and the subsequent trauma of being disbelieved when they have made their asylum claim. These women are more likely to be apprehensive when faced with reporting such abuse, for fear of damaging any chances of staying in the UK as well as being disbelieved.

Tanja claims abuse is targeted at the young and vulnerable and intimidation is used to prevent women from speaking out. She mentions one woman who filed a complaint of sexual

abuse and the next day was deported, "They made 'hand job' signs, saying, 'Wow, you look nice.' They choose younger girls, the most vulnerable. They do whatever they want."

New research identifies risk to child trafficking victims in the UK

Hundreds of children are trafficked into the UK each year, and are at dire risk of abuse and mistreatment. This includes many girls who are forced here against their will, and who may need help from the asylum system.

[Still at Risk](#), a review funded by the Home Office and based on research by The Refugee Council and The Children's Society, addresses the complex issues faced by children who are trafficked into the UK. Based on testimony from 17 children and young people who have been trafficked/suspected of being trafficked as well as surveys of local authorities, stakeholders, social workers/managers and voluntary sector workers, the report outlines the challenges face by children who are trafficked and the problems in the ways that they are treated once discovered.

These children face myriad issues. Escaping from the people who they are residing with is the first challenge. Even if children do attempt to escape, many do not know where to go or what their rights are. Some children trafficked into the country, particularly those working in cannabis factories, are unaware of what country they are in.

Even when young people do manage to seek out and contact services, they are often afraid and unable to communicate effectively, or subject to suspicion and the risk of even more trauma. One woman, Precious, recounts when she was first detained: "Being in a police station until the next day. For the first day I am very scared. Very scared, crying, fainting, they took me to hospital; bring me back to the police station. God, it's really horrible."

Many children go missing within 24-72 hours of being in the care of authorities and they often return to their traffickers or the people exploiting them as they are afraid and do not understand what is happening around them. Professionals in the sector highlight the extra protection needed, as they are children and cannot always look out for their best interests.

The treatment they receive rarely takes into account the specific and complex needs of a child who has been trafficked if it is recognised they have been trafficked at all. In many cases children are handed over to the immigration authorities even though their cases should be dealt with as a child protection issue. This has led to many vulnerable children being treated as adults; some have been put through the adult criminal justice system and detention especially when they are found as a result of police raids. They are treated as the criminals not the victims.

Trafficked children have been left vulnerable at every stage of their contact with the authorities and have often been left without reliable, constant support from an adult/guardian. Social workers and workers from the voluntary sector agree that greater awareness, training, and cooperation across sectors would help in both identifying trafficked children and preventing them from falling prey to further exploitation.

International News

More and more women forced to flee Democratic of Congo for Burundi

The number of Congolese refugees arriving in Burundi has [continued to rise](#), suggesting an upsurge in violence around the bordering regions of these countries.

A recent [report by Human Rights Watch](#) states that between March and July this year at least 44 people have been executed and at least 61 women have been raped in the region around the city of Goma, Eastern Congo, which borders Rwanda. One of the female victims was just 12 years old. These are the latest incidents in the Congolese conflict, often referred to as the [‘African world war’](#), which claimed the lives of at least 3 million people between 1998 and 2003 alone.

UNHCR statistics also show [a rise in violence against women and girls](#) in the region of North Kivu. Of the 705 sexual violence cases reported since January this year, 619 are rape cases, including 288 minors and 43 men. This is a steep rise from same period last year 108 cases where reported.

This upsurge in violence in the region – which involves Ugandan-led forces, M23 rebels including those from Rwanda, and the Congolese national army – has led to the displacement of a further 14,000 people during the summer. The number of people displaced in the Kamango area alone is 40,000, and during these periods women and girls are particularly vulnerable to being forcibly recruited into the armed forces.

It is thought that in North Kivu alone there are 196,000 people displaced by the conflict, many of whom are women and girls with no access to health care and vulnerable to sexual violence.

Increasing risks for women and girls in Syria

Women and girls are facing acute risks as violence in Syria escalates, and millions of people are forced to flee within the country and across its borders.

The challenges faced by these refugees do not end when they leave Syria. Vast and varied problems arise, including lack of access to basic necessities: food, clean water, safe accommodation, difficulties finding employment, and vulnerability to violence and exploitation.

For women and girls there are the added concerns of gender-based violence and persecution. Since the conflict began reports of rape and sexual assault have been rife both inside Syria and in the areas to which refugees flee. The Association for Women’s Rights in Development (AWID) [reported earlier in the year](#) that rape and sexual violence have been identified as the primary form of violence used against women and girls in Syria and on its borders. These kinds of assault leave women and girls vulnerable to other violence such as early and/or coerced marriage as a way for their families to ‘protect’ them from violence or further violence. This is seen as particularly important in regards to protecting the families ‘honour’.

Many young girls are also being married off, often temporarily, to wealthy men from their country of residence and abroad in order for their families to be able to cover rent and subsistence costs. This problem is not unique to Lebanon. As [Amnesty International reports](#), it has been happening in Jordan and likely in other countries where refugee populations have risen. Amnesty quoted some groups [on the ground](#) in Jordan:

"The head of a community-based organization providing relief services to Syrian refugees told me that many men from the Gulf and even Europe approach him and his organization to try to have arranged marriages between them and Syrian refugee women. He claims to have refused all of these requests"

Intimate partner violence has risen amongst refugee populations with women reporting an increase since the conflict began. As well as this many Syrian women are engaging in sex for survival in order to cover the cost of living.

It is important for Syrian women fleeing conflict to feel safe accessing and finding services, but many don't. The main issues preventing women from seeking services include: fear of mistreatment by service providers, inconvenience of locations, girls and women not permitted to access services by family, hours not convenient, priority given to men as well as prohibitive costs and fear of kidnapping.

As the crisis worsens, this situation is only likely to get more serious.

Women left especially vulnerable as violence escalates in India

The latest eruption of violence in India between the state and Maoist forces has [affected thousands of people](#). There has been a recent upsurge in the conflict in the region known as the "red corridor" in the east of the country, where annexation of land and brutal violence is widespread. Reports of people being stripped of land rights and voting ID are common.

Women are particularly vulnerable in conflict and both sides have been accused of violations of women's rights. Soni Sori of Jablei village in Dantewada was [arrested by the police](#) last year on suspicion of being a Maoist. Many say she was arrested because she is an educated tribeswoman who informs villagers of their rights. Whilst in prison Sori wrote to a friend of the sexual abuse and violence she suffered at the hands of the police. Another friend reports that this is not an unusual occurrence: "Police arrested and tortured Sori as they do not want an educated tribal woman in the area who works for locals and makes them aware about their rights".

Women are also brutalised within the Maoist movement. Shobha Mhadi joined the guerrilla movement in 2003 believing the movements stated principals of equality, but left in 2010 after being subject to torture and sexual abuse. She wrote a book earlier this year [documenting her experiences](#): "Every woman is seen as an object which would satisfy the lust of all male cadres. The movement had lured me in 2003 by making me believe that men and women would be equal in the new order it strives to create. But what I experienced over there was horrifying, worse than the oppression that the women of rural India face".

UK Training and Events

Gender, Violence and Asylum: A Troubling Trilogy?

Monday 28th October

Room G37, Senate House, London WC1E 7HU

Free. From 4.00pm – you can register for a waiting list to attend at

<http://www.eventbrite.co.uk/event/6618182161>.

This workshop will bring together experts on asylum, sexual violence and gender rights to discuss the latest research around

- the disclosure and handling of rape allegations within the asylum process
- the evaluation of credibility of rape claims
- and the challenges to justice posed by decision-makers' efforts to cope with the emotional demands of their work in such asylum contexts

The event will be chaired by Catherine Briddick of Rights of Women.

Speakers will include Dr Helen Baillot, Dr Sharon Cowan, Dr Vanessa Munro, Frances Webber, and Debora Singer of Asylum Aid.

Understanding the changes in Legal Aid Half day course organised by Rights of Women

Monday 25th November

Haringy Civic Centre, High Rd, London N22 8LE

Free. 10:00am-1:00pm

This free course is organised by Rights of Women, and will help explain the changes to legal aid. The half day training course is open to professionals from various sectors working with women and girls from the community, voluntary and statutory sectors.

To book fill out a booking form and email to; training@row.org.uk

Booking forms can be found at this address <http://www.rightsofwomen.org.uk/training.php>

New publications

***Bad News for Refugees* (Pluto Press) by Greg Philo, Emma Briant and Pauline Donald**

Bad News for Refugees was published in August and examines the treatment of refugees and asylum seekers in the media and in political rhetoric. It focuses on the affect this has on refugees and asylum seekers. The book also looks at the absence in the media of stories about women refugees, whose “voices are rarely heard”, and the specific experiences and needs presented by women in the asylum system.

The book is available to buy online from [Pluto Press](http://www.pluto.org.uk).

Charter of rights of women seeking asylum



Endorsements: 339

Google group membership: 169

The Women's Asylum Charter – five years on!

Five years ago we launched the [Charter of Rights of Women Seeking Asylum](#) at a meeting in the House of Commons. At that stage 112 organisations had endorsed the *Charter*. Now the number stands at 339. Since 2008, the *Charter* has inspired other similar campaigns and the partnership developed has strengthened the work of individual organisations, large and small.

For example, in 2010 [Why Refugee Women](#) built on the *Charter* to develop its own [Why Refugee Women Charter](#) which similarly argues that refugee women should be treated with fairness, dignity and respect and sets out minimum standards in the local region.

The report of the [Refugee Women's Strategy Group, Making Asylum Work for Women: our recommendations for a fair asylum system](#), published this year, acknowledges the *Charter* and reflects its structure and types of recommendations.

When [Medical Justice](#) was researching [Expecting Change: the case for ending the immigration detention of pregnant women](#), they realised that this was one of the *Charter's* recommendations. So they used this to demonstrate the support this recommendation already has, even listing all *Charter* endorsers on the report cover when they published their report in June this year.

Meanwhile hundreds of endorsers and supporters have been part of two major *Charter* campaigns. The [Every Single Woman](#) campaign, launched in 2009, had impacts in relation to creating a Gender Champion, revising gender guidelines, childcare during asylum interviews, timing of maternity grants and detention of women. The [Missed Out](#) campaign, launched in 2012, resulted in action points benefitting women seeking asylum being included in the [Government's strategy to end violence against women and girls](#).

The *Charter* has a multiplier effect, inspiring offshoots and enabling successful partnership working sustained by regular new initiatives.

The final word goes to [Women Seeking Sanctuary Advocacy Group Wales](#) who told us "We have endorsed the *Charter* because it highlights some specific gender issues facing women seeking sanctuary and also it represents hope for us. We believe that it is a useful tool to engage the UKBA (UK Border Agency) to treat women fairly and with dignity during the asylum process and therefore have some better chances to rebuild their lives."

For more information on the Charter and the Missed Out campaign, please go to 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

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:
www.asylumaid.org.uk/pages/give_now.html
OR send it to us by post with this form:

Name:

Address:

Postcode:

Telephone:

Email:

I want to make a one-off gift of £

(please make cheques payable to Asylum Aid) **giftaid it**

Your Gift Aid declaration

If you are a UK taxpayer, the value of your donation can increase by at least 25% under the Gift Aid scheme - at no additional cost to you. Please tick the box below to join the Gift Aid scheme.

I confirm that I am a UK taxpayer and that I pay as much income or capital gains tax as Asylum Aid will reclaim in the tax year. Please treat all donations I make or have made to Asylum Aid for the past four years as Gift Aid donations until further notice.

Please notify us if you are no longer eligible to Gift Aid your donations.

We will not sell or swap your personal details with any other organization. We would like to keep you informed about our work, campaigning and membership. If you do not wish to receive any information from Asylum Aid other than relating to your donation, please tick this box

www.asylumaid.org.uk

Registered in England and Wales under the Companies Act 1985 as a company limited by guarantee No 2513974. Registered as a charity No 526726.

Or, I want to make a regular gift to Asylum Aid by setting up a Standing Order

To: The Manager, Bank:

Address:

Postcode:

I wish to make a regular gift of £

each month/ quarter/ year (please circle) until further notice and debit my bank account:

Account number:

Sort code:

Starting on (date):

Signature:

Date:

(FOR OFFICIAL USE) To: The Cooperative Bank,
80 Cornhill, London EC3N 2NU.
Sort code: 08-00-01,
Account number: 02011002

Please return this form in an envelope to:
Freepost RRJ-J-BRGA-ZHAR,
Asylum Aid, Club Union House,
253-254 Upper Street,
London N1 1RU



Any views expressed in this publication are those of the authors. Any legal information in this bulletin is intended as a general guide only, and should not be used as a substitute for legal advice. Any contributions from, or references to, external sources (including website links), agencies or individuals do not necessarily reflect the views of Asylum Aid nor receive our endorsement.

Produced by the Women's Project at Asylum Aid

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

www.asylumaid.org.uk

supported by



matrix
chambers



N2001/000/88 1



Women's Asylum News is edited by Russell Hargrave
additional research and writing by Debora Singer and Jatu Johnson