

women's ASYLUM NEWS

Refugee Women's Resource Project - Asylum Aid - Issue 11 June 2001

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RWRP Feedback from the Canadian Conference (4-6 May 2001), Part II Last month 'women's Asylum News' reported on the opening speeches of the Conference and broadly on issues that were discussed throughout the many workshops organised. Below is a summary of some of the presentations and discussions that took place in several of the workshops attended by RWRP. More will be covered in our July issue.

▪ **Refugee determination processes: Examples of obstacles for women around the world** The Conference was a great opportunity to get informed about asylum determination processes in different parts of the world and, in particular, their lack of gender sensitivity and how they fail women asylum seekers. A presentation by the **Refugee Organization Netherlands** - which is an umbrella forum of 200 organisations and also a member of the advisory board on asylum issues consulted by the Dutch government - highlighted a number of challenges mainly related to the welfare rights of refugees, many of which affect directly women and their children. For instance, once a case is rejected at first instance, there is a chance to apply again but there is no provision for social rights during the period of appeal or after a second refusal. The refugee has then 28 days to leave the country. As a result, it is estimated that 35,000 refugees are currently living in the streets in the Netherlands and many women have become easy targets for trafficking gangs. In terms of right to a family reunion for those granted refugee status, the right is restricted to people with a job and enough money to look after the family. Through its lobbying activities, RON tries to challenge the lack of gender-sensitivity of the current system by raising gender awareness on refugee issues.

Such issues were also highlighted by **Sticking Vast**, an organisation working with women and children who have become illegal after being refused asylum in Netherlands. For instance, an asylum seeker is requested to report to a refugee centre and tell her or his story within 48 hours of reporting to the centre. For women fleeing gender-specific violence such as FGM, trafficking or sexual abuse, the contrast with the procedures for Dutch women - who have 15 years to report sexual abuse - is startling. On the other hand, women who have been trafficked and forced into prostitution and report it to the police will have a right to stay during the time of the police investigation. However, at the end of the investigation, they still have to leave the country. Other instances of malpractice included the fact that female interpreters or female immigration officials are not compulsory for women asylum seekers who (like men asylum seekers) can be interviewed at anytime of the day or night. According to the speaker, many women do not understand what there is to tell whilst they are asked to give details such as the colour of the plane they boarded when fleeing their country, or the colour of the crew's uniform.

The **Canadian system** was also criticised. A woman asylum seeker from Pakistan talked about her experience in Canada and how she is also forced to work illegally as she is currently appealing against a negative decision but does not get any aid. In addition, a work permit in Canada costs nearly £400 and is only granted for six months. Even when a person is granted refugee status by the Immigration and Refugee Board (IRB), they might not obtain it: A medical examination (including tests) is required to obtain a residence permit and the outcome of the tests will determine whether or not a person

is granted the permit and therefore ultimately recognised as a refugee (even though the IRB has granted this person refugee status). According to lawyers, there seems to be no way to challenge this policy at the moment.

In **South Africa**, the refugee determination system was only put in place after 1994 with the introduction of the Aliens Control Act. Generally speaking the system is not geared to assist refugees (there is no social support provision) and the government keeps tightening the law. As a result, many qualified refugees are forced to get into street trading. Children are excluded from schools because they cannot speak English. There are a number of challenges in terms of gender-related asylum claims (Gender guidelines were published in 1999). Currently, the interview procedure overlooks women who are only interviewed to cross-check on information provided by their husbands. Women are not encouraged to apply for asylum individually. Another shortcoming which applies especially to women asylum seekers fleeing gender-related persecution is the fact that South Africa relies heavily on the OAU Convention which refers to 'recognized' areas of conflict whilst others are considered safe (If a refugee is coming from a 'recognized' area of conflict, there is no need to provide evidence of persecution). A recent policy also requested immigration to close border posts to refugees transiting through what were considered 'safe' countries. The policy was withdrawn following a legal challenge (see more on page 6).

In most countries around the world, there are no official asylum determination processes. In such instances, the UNHCR is the official body responsible for the determination of asylum cases, in collaboration with local governments. Yet many testimonies from around the world exposed the shortcomings of the UNHCR's practices. A refugee woman from the Democratic Republic of Congo (DRC) talked about her experience of trying to get refugee protection in **Kenya** and the difficulties encountered with UNHCR officials asking why people from DRC were coming to Kenya '*when they know what is happening in the region*'. She also testified about the case of a woman whose

daughter was very sick and refused access to a hospital on the basis that she was a '*Hutu and you Hutu have killed all the Tutsi [in Rwanda]*'. The daughter subsequently died. The lack of sensitivity of UNHCR to refugee women's claims was also highlighted by **JRS Thailand**, who successfully appealed on behalf of women against a number of UNHCR refusals. JRS also talked about the inadequacies of the system for dealing with gender-based persecution. Yet it is crucial that UNHCR takes on board the criticisms as the agency is responsible for the great majority of asylum claims worldwide (the agency is currently consulting a number of refugee women and organisations on the issues as part of its global consultation process).

- **Documentation issues** A major element in anyone's asylum claim is the provision of evidence. For women fleeing gender-related persecution, this can prove a major challenge as not only does it remain difficult to document gender claims – and also time-consuming - but in many cases the burden of proof is also much higher.

A speaker from the Tahiri Justice Centre, USA, illustrated this by talking about her personal experience as a lawyer. One of her clients was told by a judge that the evidence provided was '*too self-serving*': The woman from West Africa had presented a copy of her arrest warrant and a newspaper article on her case. As the lawyer put it, the evidence turned out to be too good. After a long research, she managed to obtain the newspaper to send a confirmation that the article was genuine. In another case the judges were suspicious of the signature of a mother in a letter she had sent to her daughter and in which she provided evidence of FGM threats if the daughter returned to her country. The judges found that the signature was '*too formal*' (for a mother writing to her daughter). The case was won when someone was sent by the court to verify how people in the country signed letters they send to relatives and confirmed the '*formality*' of people's signature!

When specific documentation is not provided, as is often the case, decision-makers just draw

their own conclusions from information collected in their own countries. Such information is commonly '*inaccurate*' and yet remains instrumental in the outcome of the case. The Netherlands and the UK were identified as some of the countries where the information provided is particularly inaccurate and the sources of information never provided. In contrast Canada provides three different sources for each piece of information immigration decision-makers rely upon to make their decisions.

However, the Canadian system has also its shortcomings. A former Judge in the IRB, who made a presentation on the National Documentation Centre (an independent source of information used by the IRB), stressed that despite the production of topical reports or reports focusing on geographical areas in relation to violence against women, there is still a lack of documentation in many subjects. A leading Canadian specialist on women's issues in Iran said that she had never been consulted as an expert even though IRB produced a report on women in Iran. According to her, there was a gap in the way the sources of information and documentation were selected since it is not known how IRB chooses its sources. As a result, the gender information produced by IRB may remain biased and under-documented.

▪ **Trafficking** Whilst smuggling only involves the transfer of people from A to B, trafficking implies the use of coercion to exploit people in one way or another (including forced labour, selling drugs, prostitution, or the removal of internal organs, etc.). Trafficking represents one of the most horrendous violations of human rights today and the trade can '*flourish*' in all sorts of circumstances. One of the speakers pointed out that the trafficking of women in Bosnia was caused by the war and that the consumers were UN forces. Also, greater obstacles to accessing asylum determination processes means that more and more women resort to smuggling or even trafficking to reach a safe area (trafficking is currently the second most lucrative trade in the world after drugs). The conditions in which they are forced to work

to repay their debt represents a great risk to their health and life. Even when women know that they are going to work in the sex trade, the fact that they are not willing to work under certain conditions but are forced to do so constitutes a violation of their human rights.

However a woman gets into the hands of the traffickers, her chances of escaping are both extremely slim and dangerous (her family is also at risk). There are also major implications in terms of seeking protection from the traffickers. These women become 'illegal immigrants' in the eyes of the authorities who arrest them, but also the law and the media. At the same time, the provision of protection for such cases is almost non-existent in the western world, let alone in the rest of the world (Belgium and Italy are currently the only two countries in Europe that provide protection and asylum to women willing to prosecute their traffickers). There is therefore an urgent need for western governments to adopt adequate legislation that would penalise not the victims of trafficking but the traffickers themselves.

For the reasons mentioned above, it was unanimously agreed that threat of trafficking should be included as a Convention ground to obtain refugee status. Many other recommendations relating to the various issues discussed were made. We will report on these, as well as other important issues covered, in the final part (III) of our coverage of the Conference in our July edition of 'Women's Asylum News'.

Research Project on 'Honour'

Killings In 1999, the International Centre for the Legal Protection of Human Rights (INTERIGHTS) and the Centre for Islamic and Middle Eastern Law (CIMEL) initiated a three year action-oriented collaborative research project on Strategies to Address 'Crimes of Honour'. The project seeks to facilitate co-operation among activists, lawyers, academics and others and to develop and build upon diverse and multiple strategies, nationally, regionally and internationally, to combat impunity for those responsible for 'honour'

crimes and to challenge the climate of support for the practice amongst state institutions.

Activities to date In its first year, the project undertook a number of activities to identify commonalities in incidence, practice and law that might contribute to developing such strategies within the framework of international human rights law. This included the compilation of a directory of Initiatives to Address 'Honour' Crimes; preparing an Annotated Bibliography in Arabic, English and Portuguese (available on site on <http://www.iwhc.org/bibliointor.html> or <http://www.1umn.edu/humanrts>); compiling Statutory Provisions on Crimes of 'Honour' in the Penal Codes of Arab States and holding a Roundtable on Crimes of 'Honour' convening twenty key scholars, lawyers, journalists and human rights activists from Turkey, the Middle East, Pakistan and the UK.¹ Other activities specifically focused on the issue of forced marriage.

Future Activities Over the next two years, the Project will focus on supporting documentation at the country level as well as strategies of response, especially legal initiatives, to address crimes of honour. These will include reviewing legal and other support strategies to address the practice of 'honour' killings and forced marriage, analysing case law and documenting community based advocacy programmes. It will also publish a 'Handbook on Remedies for Forced Marriage in India, Pakistan and Bangladesh' for the use of lawyers, activists and other frontline workers.

In addition, the Project will include preparing documentation on the implementation of such laws and their impact on women's human rights for review at an international meeting of experts to be held in 2002.

The Project research staff would welcome contact from interested lawyers, academics or activists working on the issue. For further

information please contact Sara Hossein, Legal Officer for South Asia at INTERIGHTS on 020 7272 3230 or hcp@interights.org or Dr. Lynn Welchman, Director of CIMEL, on cimel@soas.ac.uk.

Update on RWRP Website

The RWRP website has been up and running for 9 months now and work is continually going on to add to its content and increase its usefulness to those concerned with refugee women. Currently the site includes the following information:

- background information on the particular issues facing women refugees
- details of project staff and the work they do
- links to websites on human rights, women's human rights and domestic violence
- new developments in asylum policy and RWRP commentary
- women's ASYLUM NEWS – back issues and the current one
- reports published by RWRP which can be downloaded
- advice on the asylum process in the UK
- research carried out by RWRP for individual women's asylum claims, organised by country – more cases will be added on an ongoing basis

Plans for the site include a bulletin board for discussion and information-sharing, a searchable database of the books and journals in the RWRP library, more links to assist researchers and caseworkers, and more information on gender-related persecution.

Please visit the site and let us have your feedback about what would be useful to you. The address is www.asylumaid.org.uk - then click on Refugee Women's Resource Project.

Other Website News: Women Living Under Muslim Laws (WLUML), an international network that provides information, solidarity and support for all women whose lives are conditioned or governed by laws and customs said to derive from Islam, is launching an updated and revised website on

¹ 'Roundtable on Strategies to Address 'Crimes of Honour': A summary report' 439-461 in 6 Yearbook of Islamic and Middle Eastern Law 1999-2000.

www.wluml.org. The website offers links, a list of publications, including country compilations on Afghanistan and Algeria and a search facility.

UK Projects/Events/Campaigns

Gender Training Course

The Centre for International Development and Training, University of Wolverhampton (England), offers this practical twelve-week programme which develops strategies and skills for effective gender training for a range of contexts in development work. It runs once a year, next course commencing in January 2002. At the end of the course, participants are attached to an institution or organisation that provides gender training for a two-week period. Successful participants will receive an Overseas Technical Trainers Award. For more information, contact: Tel: 01902 323 219, Fax: 323 212, or email: cidt@wlv.ac.uk.

Research on the Maternity Experiences of Asylum Seekers

The Maternity Alliance is doing some research into the experiences of asylum seekers who are currently pregnant or have had a baby in the UK in the last year. The overall aim of this project is to demonstrate the inadequacy of the current support system in meeting special needs of pregnant women and new families and to lobby for improvements. The project aims to interview about 40 asylum seeking women about their experiences of using maternity care, vouchers, dispersal, housing, access to food, social networks and the emotional impact of having a baby during the asylum process. The project is also interviewing support groups and service providers about the services available to establish good practice guidelines. For more information or to help in the project, contact Jenny McLeish on 020 7588 8583 ext 127 or jmcleish@maternityalliance.org.uk.

Ride for the Rights of Refugee

Liberty and the Medical Foundation of the Care of Victims of Torture are jointly organising two separate cycle rides (of 120 miles on 27th July for the super fit from Lindholme prison near Doncaster to Oakington; and 50 miles on 28th

July for a leisurely ride on country roads, villages and historic sites in Cambridgeshire and Essex). The event will mark the 50th anniversary of the Geneva Convention on Refugees (signed on 28th July 1951) and its objectives are to condemn detention of asylum seekers, to rally support for the rights of all refugees and asylum seekers and to mobilize opposition to the xenophobic policies and practices of the Government. There will also be a public meeting organised in Cambridge on Friday 27th July at 7.30pm: 'Justice not Jail; No Detention for Refugees'. For more on all three events and how to take part, please contact Michael McColgan, 87 Scott Road, Sheffield S4 7BG, Tel: 0114 249 6635 (days) or 242 3511 (evenings), Fax: 0114 276 1045 or email: mmccolgan@howells-solicitors.com

UK Roundtables on racism and anti-racist activities in national & European contexts.

Following their UK Roundtable in November 2000, the European Monitoring Centre on Racism and Xenophobia, in conjunction with the European Commission against Racism and Intolerance, will be holding two Roundtable events: One on 17th July in Cardiff and one in London in November. For more information and a registration form, contact the UK Secretariat, Elliot House, Room 216, 10-12 Allington Street, London SW1E 5EH. Tel: 0207 932 5272/5219 or Fax: 0207 932 5220 or email: secretariat@cre.gov.uk

International News

Join the EWL's European Campaign on Women Asylum Seekers

Whilst we are celebrating refugee week we should not forget that the European Women's Lobby (EWL) has been running its campaign 'Persecution is not Gender Blind' since 6 December 2000 and will continue to do so until 6 December 2001. You can join by obtaining the postcards (available in English, French, German and Spanish) each covering one of the major issues affecting women asylum seekers (FGM, Rape as a weapon of war, Forced marriage and 'Honour' Crimes and Threats to the lives of women whose partners are directly targeted by oppressive regimes). The postcards should be

sent to EWL who will submit them to the Belgian Minister of the Interior, acting on behalf of the EU, during the Belgian Presidency in the latter part of 2001. You can order the cards from the EWL Secretariat, rue Hydraulique 18, 1210 Brussels. Tel: + 32 2217 9020, Fax: + 32 2219 8451 or email:

marycollins@womenlobby.org. Alternatively you can join the campaign online by signing the electronic petition on www.womenlobby.org/asylumcampaign.

The EWL is also organising a **Seminar on Strengthening women's rights in an enlarged Europe** which will take place on 14 September 2001, at the Hotel Scandic Crown in Brussels. For further information, contact Marie-Anne Leunis at leunis@womenlobby.org Other EWL activities include lobbying national, European and international institutions to fight **trafficking in women and prostitution** and recognise them as forms of violence against women and a violation of fundamental rights.

International Forum on FGM, Somalia

Black Women's Health & Family support (previously known as London Black Women's Health Action Project) and Barako Family Health & Education Centre are holding a five-day International Forum for action against Female Genital Mutilation in Hergeisa, Somaliland from 29 Oct to 2nd Nov 2001. The Forum aims to bring together local and international NGOs, relevant health professionals, religious and government representatives, and academics, in order to improve understanding of FGM and work towards its prevention via identification of appropriate strategies.

Please contact Shamis Dirir, Director at BWHFS in London on + 44 (0)208 980 3503, Fax +44 (0)208 980 6314, email Lbwhap@dial.pipex.com or write at the following address: 1st Floor, 82 Russia Lane, London E2 9LU for further information on programme and costs, including accommodation. The organisation is also looking for people or organisations willing to offer funding or sponsorship for the Forum.

Department of State believes FGM is a serious violation of a woman's rights The Immigration Service in the U.S. has been requested to inform visa applicants about the illegality of FGM in the U.S. The Secretary of State recently sent a memo to all diplomatic and consular posts instructing the Immigration and Nationalization Service (INS) to '*notify visa recipients of the severe harm to physical and psychological health*' caused by Female Genital Mutilation (FGM). The INS fact sheet on FGM will be distributed to visa recipients and/or posted as a public notice.

It begins with a definition of FGM and a description of the health problems associated with it. It also states that in the U.S. it is illegal to perform FGM on a person under 18, unless the operation is medically necessary. It adds: '*there is no exception for performing FGM because of a belief that it is required as a matter of custom or ritual. A parent who knowingly allows FGM to be performed on his or her child could potentially be held criminally liable*'. The basis of the campaign is the U.S. belief that '*FGM is a serious violation of women's rights and should be eradicated through education efforts and legislation making the practice of FGM illegal*'. Visa recipients from 28 countries in Africa where FGM is deemed by the Department of State to be a prevalent practice (either countrywide or in ethnic subgroups) are the target of this notice which is available in 7 languages including Arabic, Amharic, Swahili and Somali. A copy of the notice can be found on <http://intranet.ca.state.gov/vo/f/p/fgm/fgm.html>

South Africa backs down on controversial 'safe third country' policy directive

As we reported in our bulletin last month, the Department of Home Affairs directive ordered border posts to turn back asylum seekers considered to have transited 'safe' neighbouring states. However the policy was challenged in the court by the organisation Lawyers for Human Rights (LHR), on the grounds that it was unconstitutional and contrary to the United Nations and the Organisation of African Unity refugee conventions. As a result, the Home Affairs

Minister ordered the withdrawal of the policy. A Home Affairs official told JRS Johannesburg that "*persecution could come even from an asylum country and an asylum seeker must find a secure place for himself*". If only individual European countries could agree with this. See www.jesref.org or contact Dispatches@jesref.org for more information.

Publications

Information Pack for Newly-Arrived

Refugees The British Red Cross Refugee Unit, London Branch, has produced an Information Pack for newly-arrived refugees in the UK which is available in 7 languages (English, Farsi, French, Kurdish, Russian, Somali and Spanish). The pack provides basic orientation information on living in the UK, especially London. It has a **Women Refugees Section**, including information about sexual harassment, domestic violence, counselling and education. For copies of the packs, please contact the Refugee Unit on 020 7730 7674 or at rosemary@redcrossru.fsnet.co.uk.

'Hidden in the Home: Abuse of Domestic Workers with Special Visas in the United States', Human Rights Watch, June, 2001

A special visa granted to foreigners who work as household domestics in the U.S. (mainly women) leaves them vulnerable to serious abuses according to a report produced by Human Rights Watch and released on June 15, 2001. The author said that the women, who were lured to the country with false promises about their employment conditions, worked long hours (up to 19 per day) and were very poorly paid by employers who often come from a 'powerful, elite class'. They were rarely allowed to go out and were prohibited from speaking to strangers. Some had been physically or sexually abused and about ten percent of the cases reviewed were trafficking victims. Due to the restrictions attached to the special visa, the workers are legally tied to their employers and if they leave, they lose their immigration status and can face deportation. Despite following the immigration rules, the domestic workers do not enjoy protection from the U.S. government as there

is no department or agency monitoring the migrant domestic worker visa programs. In addition, workers who do want to complain and press charges face many obstacles, including language barriers, the lack of right to work whilst seeking justice or even to stay in the U.S (see www.hrw.org/reports/2001.usadom/)

Kenya research highlights internally displaced people fear of returning home In the research commissioned by Jesuit Refugee Service (JRS), 90 per cent of respondents, displaced by land-related ethnic violence that was politically instigated, said they feared to return to their home due to ongoing hostility and severe tension between communities. The research, entitled '**The Current Situation of Internally Displaced Persons in Kenya**', was conducted in February this year in the Rift Valley and the Eastern Provinces, where hundreds of thousands of people lost their land and at least two and a half thousand were killed (including women) between 1992 and 1998. According to the researcher, not only is '*the feeling of fear and insecurity ... heightened by the fact that the perpetrators of the violence got away with impunity*' but there is also a lack of political will to resolve the land disputes and an '*official blindness*' to the needs of the internally displaced population. At the same time, members of the humanitarian community, journalists and researchers alike are denied access to information on the internally displaced for reasons of '*state security*'. The report will soon be available on the JRS website www.jesref.org. **Related Information on Kenya:** RWRP's report 'No Upright Words': The Human Rights of Women in Kenya (accessible at www.asylumaid.org.uk).

Update on RWRP Bulletin Almost a year after its first launch, 'Women's Asylum News' is being sent to over 1,000 recipients each month, either by post or electronic mail. The number of recipients is still growing and some of you have sent us very positive comments about it! In order to keep our postal costs down, we would appreciate if you could send us your email details if applicable. Also, do let us know if you would like to unsubscribe to it.

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And do not hesitate to send us information,
comments and suggestions for future editions!

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The RWRP is funded by the Community Fund, the Joseph Rowntree Charitable Trust, Oxfam, Womankind Worldwide, Servite Sisters Charitable Trust Fund, Avenue Trust and Law Society Trustees. 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, agencies or individuals do not necessarily reflect the views of Asylum Aid nor receive our endorsement.

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