

# Women's Asylum News

## Women's Project at Asylum Aid

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## ***Unsustainable: The quality of initial decision-making in women's asylum claims***

*Debora Singer, Policy and Research Manager at Asylum Aid, introduces Asylum Aid's latest research.*

Even before Asylum Aid's latest research on the quality of initial decision-making in women's asylum claims was written up, the UK Border Agency (UKBA) had taken action in response to its findings. When we told the UKBA that our research showed that far more women have their initial refusals of asylum overturned at appeal compared to men, the UKBA decided to look into its own figures. For the first time they disaggregated the outcomes of appeals by gender. The results were startling. The UKBA acknowledged that a disproportionate number of refusals of applications from women are overturned at appeal.<sup>1</sup>

Taken together, Asylum Aid's research findings and the UKBA's disaggregated statistics provide a powerful indictment of the refugee status determination procedure in the UK.

Asylum Aid's research is the first comprehensive investigation into how women's initial asylum claims are being dealt with since the New Asylum Model (NAM) was brought in during 2007 to speed up and implement an end-to-end asylum decision-making process. It follows on from research published by

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<sup>1</sup> UKBA, Asylum Improvement Project: List of change projects – December 2010, p.4.

Asylum Aid in 2006 which found very little evidence of the implementation of the gender guidelines which case owners are expected to follow.<sup>2</sup>

Our researchers, Helen Muggerridge and Chen Maman, analysed 45 women's case files from three regions – Cardiff, Leeds and London. The only criteria were that these were cases of women who had gone through the NAM. The cases included grants and refusals. The researchers also interviewed nine of the women whose files were being analysed to supplement the legal analysis with personal experiences.

The sample included Sanam, who was forced into marriage at the age of 14 and suffered domestic violence for years before fleeing Iran after being accused of adultery; Jane, a lesbian from Uganda where the death penalty is imposed as a punishment for homosexuals; and Kaltun, who was beaten and raped after not covering herself up when she went to fetch water from a well in Somalia.

Within the research sample, 87% of cases were refused initially, mostly on the basis of credibility. 42% of initial decisions were overturned on appeal and this rose to 50% when reconsiderations were taken into account. This compares to 28% of all appeals allowed (men and women) according to the national asylum statistics.<sup>3</sup> The number of appeals allowed were mainly due to immigration judges adopting a different approach to credibility and having a broader and more accurate knowledge and understanding of relevant case law and country of origin information (COI) than the UKBA case owners.

Overall, the research identified a picture of case owners simply failing to believe women asylum seekers.

The Refugee Convention ground which case owners consistently and appropriately considered was that of political opinion and, within that, imputed political opinion. However, even when case owners recognised that a woman's case fitted within this ground, they generally refused her case on the basis that they did not believe her story.

If a woman's case solely involved gender-related persecution, such as threat of 'honour' killing or trafficking, case owners never recognised that the claim could fit within the Refugee Convention. Similarly they seldom considered whether a woman was a member of a Particular Social Group (PSG) and if they did, they never accepted that she was. This, in effect, created a higher threshold for women whose claims for asylum involved a gender element, a threshold which none of the claims were able to meet.

Even when information was available in the Country of Origin Information Service country reports in relation to the treatment and conditions of women in countries of origin, or when there was relevant case law in existence, COI and case law were often used selectively and sometimes unrepresentatively in support of negative decisions.

Yet, in half of the cases refused, the immigration judges overturned the initial decision. When this occurred it was often because they were adopting a different approach to credibility. They also engaged the Refugee Convention and the PSG ground in gender-related cases and used up-to-date case law and COI.

<sup>2</sup> Ceneda S. and Palmer C, 'Lip service' or implementation? *The Home Office Gender Guidance and women's asylum claims in the UK*, Asylum Aid, 2006, [http://www.asylumaid.org.uk/data/files/publications/38/Lip\\_Service\\_or\\_Implementation.pdf](http://www.asylumaid.org.uk/data/files/publications/38/Lip_Service_or_Implementation.pdf).

The latest revision of the Asylum Instruction on Gender Issues in the Asylum Claim, September 2010 is available here: <http://www.ukba.homeoffice.gov.uk/sitecontent/documents/policyandlaw/asylumpolicyinstructions/apis/genderissueintheasylum.pdf?view=Binary>.

<sup>3</sup> Control of Immigration: Statistics United Kingdom 2009, Home Office Statistical Bulletin 15/10, p. 44. <http://rds.homeoffice.gov.uk/rds/pdfs10/hosb1510.pdf>.

The research clearly found that the gender guidelines<sup>4</sup> in place at the time (the October 2006 revision) were not being fully implemented. In September 2010, the UKBA published a revised Asylum Instruction on *Gender Issues in the Asylum Claim*.<sup>5</sup> This followed consultation with agencies including Asylum Aid, UNHCR and ILPA who also stressed the need to ensure the full implementation of the guidance. Training and quality audit mechanisms are essential to this process.

The research report examines the poor mental health and wellbeing of the women, part of which they put down to the asylum process. Women interviewed for this research said that not being believed by the case owner after disclosing information relating to sexual violence contributed to their depression. These women then suffer the stress of being refused asylum and having to go through the additional anxiety of an appeals process.

Apart from the huge emotional toll, it is clearly a waste of public funds for so many cases to have to go to appeal.

In 2009, of the 24,450 applications received in the UK, 8,045 were by women applying in their own right.<sup>6</sup> Of these 5890 (72%) were refused.<sup>7</sup> Our sample is too small to extrapolate figures but using the figures supplied by the UKBA and detailed in our research report, this would mean that at least 2000 women have their cases allowed on appeal in a year.

The Coalition Government's agreement of May 2010 included the following statement regarding asylum: "We will explore new ways to improve the current asylum system to speed up the processing of applications."<sup>8</sup> The UKBA is following this up through the Asylum Improvement Project (AIP) which concentrates on three main themes:

- Greater productivity and efficiency in the asylum process
- Better, more sustainable, decisions (i.e. not lost at appeal)
- Assisting removals performance<sup>9</sup>

The findings in our research report relate most closely to the second theme. In December 2010, the AIP produced a list of change projects which included the following:

"A disproportionate number of refusals of applications from single females are overturned at appeal. We are analysing the reason for this – as well as conducting a piece of work to look at every stage of the asylum process from the gender perspective - and will amend our guidance, processes and training accordingly."<sup>10</sup>

But leaving it to the UKBA to overcome the issues raised in our research report will not be enough. The overriding culture of disbelief identified in our research will not be overcome by some additional guidance, processes or training.

<sup>4</sup> Officially referred to as Asylum Policy Instruction/Asylum Instruction.

<sup>5</sup> <http://www.ukba.homeoffice.gov.uk/sitecontent/documents/policyandlaw/asylumpolicyinstructions/apis/genderissueintheasylum.pdf?view=Binary>.

<sup>6</sup> Control of Immigration: Statistics United Kingdom 2009, Home Office Statistical Bulletin 15/10, Table 2c Applications received for asylum in the United Kingdom, excluding dependants, by country of nationality, age and sex, 2009, [http://uk.sitestat.com/homeoffice/rds/s?rds.hosb1510supptabsxls&ns\\_type=pdf&ns\\_url=\[http://www.homeoffice.gov.uk/rds/pdfs10/hosb1510supptabs.xls](http://uk.sitestat.com/homeoffice/rds/s?rds.hosb1510supptabsxls&ns_type=pdf&ns_url=[http://www.homeoffice.gov.uk/rds/pdfs10/hosb1510supptabs.xls).

<sup>7</sup> Control of Immigration: Statistics United Kingdom 2009, Home Office Statistical Bulletin 15/10, Table 2j Asylum Initial decision outcomes, excluding dependants, by country of nationality and sex, 2009, [http://uk.sitestat.com/homeoffice/rds/s?rds.hosb1510supptabsxls&ns\\_type=pdf&ns\\_url=\[http://www.homeoffice.gov.uk/rds/pdfs10/hosb1510supptabs.xls](http://uk.sitestat.com/homeoffice/rds/s?rds.hosb1510supptabsxls&ns_type=pdf&ns_url=[http://www.homeoffice.gov.uk/rds/pdfs10/hosb1510supptabs.xls).

<sup>8</sup> HM Government, The Coalition: our programme for Government, May 2010, p. 21.

<sup>9</sup> UKBA, Terms of reference for the Asylum Update, 14 July 2010.

<sup>10</sup> UKBA, Asylum Improvement Project: list of change projects – December 2010, p. 4

In January 2010, the first recommendation of the *Charter of Rights of Women Seeking Asylum*<sup>11</sup> was implemented when the UKBA appointed a Gender Champion from its senior management team (Matthew Coats, Head of Immigration). At the same time, the UKBA and Charter endorsers agreed terms of reference for an engagement process to negotiate on issues affecting women seeking asylum which has resulted in a range of impacts.<sup>12</sup> Despite this, Asylum Aid's research demonstrates that the change of culture urgently needed to produce a genuinely gender sensitive asylum system is still a long way away.

Asylum Aid's advocacy strategy for influencing the UKBA in relation to this research will build on the engagement processes already in place. The report has a range of recommendations that could improve the quality of decision-making in the cases of women seeking asylum and, whilst most focus on the UKBA, Asylum Aid will also seek to influence the Country of Origin Information Service, the Legal Services Commission, legal representatives and the Independent Chief Inspector of the UKBA.

And what of Sanam, Jane and Kaltun whose stories are described at the beginning of this article? None of them were granted asylum initially; all were granted refugee status on appeal.

Women like Sanam, Jane and Kaltun have the right to have their claim for asylum decided in a manner that stands up to legal scrutiny. Asylum Aid believes that the poor quality of decision-making evidenced in this research is unsustainable.

***Unsustainable: the quality of initial decision-making in women's asylum claims, Asylum Aid, January 2011***

For the full report see:

<http://www.asylumaid.org.uk/data/files/publications/151/UnsustainableWEB.pdf>.

For the executive summary see:

<http://www.asylumaid.org.uk/data/files/publications/152/UnsustainableExecSummaryWEB.pdf>.

To request paper copies, please email [Charter@asylumaid.org.uk](mailto:Charter@asylumaid.org.uk).

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## Legal Issues

***Quila & Ors v Secretary of State for the Home Department & Ors [2010] EWCA Civ 1482 (21 December 2010)***<sup>13</sup>

The case addressed the lawfulness of Paragraph 277 of the Immigration Rules which prevents anyone under the age of 21 from receiving a spouse visa to enter the UK, unless there are "clear exceptional compassionate circumstances which have not previously been considered" to justify the grant of an exception outside the Immigration Rules by the Secretary of State for the Home Department (SSHD). The Court of Appeal agreed that the aim of preventing and inhibiting forced marriages is a legitimate aim but went on to examine whether immigration control is an appropriate means of doing so.

The SSHD argued that the rule was based on a concern to discourage forced marriages which often involve rape, child abuse and domestic violence. The SSHD also said that although it was difficult to

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<sup>11</sup> <http://www.asylumaid.org.uk/data/files/charter.pdf>

<sup>12</sup> UKBA, Meeting the needs of women seeking asylum: terms of reference, March 2010, [http://www.asylumaid.org.uk/data/files/tor20100302\\_final.pdf](http://www.asylumaid.org.uk/data/files/tor20100302_final.pdf). For more information on the Charter see [http://www.asylumaid.org.uk/pages/charter\\_of\\_rights\\_of\\_women\\_seeking\\_asylum.html](http://www.asylumaid.org.uk/pages/charter_of_rights_of_women_seeking_asylum.html). See also the Charter page in this issue.

<sup>13</sup> <http://www.bailii.org/ew/cases/EWCA/Civ/2010/1482.html>.

estimate the actual number of forced marriages because they often go unreported, over a quarter of reported cases involve those aged between 18 and 20. By raising the age limit when individuals are allowed to apply for entry clearance, leave to enter or remain in the UK as a spouse this would result in a decrease of forced marriages. The SSHD further said that the older the individual the better equipped they would be to oppose the marriage in the first place.

The Appellants argued that the rule was a breach of the right to private and family life (Article 8 European Convention on Human Rights - ECHR) and the right to marry (Article 12 ECHR). They relied on the fact that there is no clear evidence on the actual number of forced marriages in the UK and that some government statistics indicated that only 4% of marriages of those between 18 and 20 were considered by the Forced Marriage Unit to be forced marriages. Their grounds of appeal were that the rule is irrational because it is incapable of producing its intended effect and because of its harmful and unnecessary consequences; that it has a disproportionate effect on the right to family life and the right to marry; and, that it is discriminatory by making an illogical exception in favour of service personnel. The Appellants said that any protection that the rule may offer against forced marriage is only temporary and indirect. It cannot ensure that forced marriages do not take place either in the UK or abroad.

Lord Justice Sedley accepted that the objective of frustrating or discouraging forced marriages is a legitimate one. He found that Paragraph 277 of the Immigration Rule has little, but not nothing to do with preventing forced marriages. The rule is therefore rationally connected to the legitimate aim of preventing forced marriages and is not irrational. He accepted that the rule may have some impact on reducing the prevalence of forced marriage and that the rule is not irrational despite being "an admittedly blunt instrument". Policies which pursue a legitimate aim must still be proportionate to the aim sought and must not exceed what is necessary to achieve the desired objective. The question was whether the aim of preventing forced marriages that the rule seeks to achieve "can justify the adverse impact on what on any view is a far larger class of innocent young couples". Lord Justice Sedley said that the ban for immigration purposes of marriage for people under 21 cannot be justified because it has an "arbitrary and disruptive impact [...] on the lives of a large number of innocent young people". The SSHD had treated proportionality as a mathematical calculation failing to take into account the critical question of "why the protection of the vulnerable justified a blanket rule which invaded the fundamental rights of a far greater number of innocent people".

The Court of Appeal, however, is not empowered to change the rule and this is something for the SSHD to do in light of the Court's reasoning. The Court, furthermore, decided to consider the rule on the basis of its effect on the two couples in question as opposed to looking at the rule itself in its general application. The two Appellants in this particular case were married to British nationals "who can legitimately take their stand on an indefeasible right of abode" and who can argue that the executive must justify its interference with their right to family life and their right to marry with the strongest possible reasons. The appeal was allowed on the basis that the application of Paragraph 277 of the Immigration Rules to the two Appellants was unlawful. LJ Sedley suggested that the position of a person who seeks entry clearance or leave to enter or remain in the UK as the spouse of a sponsor with temporary or revocable leave may be different. Therefore, the Court has not struck down the rule but has now left it to the SSHD to decide the more general effects of the judgment on the rule.

Lord Justices Pitchford and Gross agreed with LJ Sedley, albeit on slightly different grounds.

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## ***RT (Zimbabwe) & Ors v Secretary of State for the Home Department [2010] EWCA Civ 1285 (18 November 2010)***<sup>14</sup>

The case concerned four Zimbabwean Appellants who did not have any particular political opinion and had not suffered persecution in the past because of it. Their claims for asylum had been refused by the Asylum and Immigration Tribunal in light of the guidance from the Zimbabwe Country Guidance case of *RN*.<sup>15</sup> The Court of Appeal in this case considered whether the Tribunal had correctly applied the guidelines from *RN* and whether it was “legitimate to require applicants, in order to avoid persecution, to demonstrate loyalty to Zanu-PF, itself a persecutory regime”, in particular in light of the recent Supreme Court decision in *HJ (Iran)*.<sup>16</sup>

The Appellants argued that regardless of their political opinion, or lack of it, there is a risk that if returned to Zimbabwe they will suffer persecution due to their unwillingness or inability to demonstrate their support for the Mugabe regime. They relied on the following more specific arguments: (i) that the rationale of the judgment in *HJ (Iran)* should also apply to cases of political opinion<sup>17</sup> so that applicants holding a genuine political belief should not be required to change their behaviour or deny their belief in order to avoid persecution; (ii) that an applicant who does not possess loyalty to a certain regime should not be required to pretend s/he holds this view or lie to the authorities of her/his home country to avoid persecution; and (iii) that the Tribunal had failed to correctly apply the guidelines in *RN* in the four Appellants’ cases.

The Court of Appeal accepted that if an asylum seeker holds a genuine political opinion; s/he should not be required to hide those beliefs or lie about them to avoid persecution. The Secretary of State for the Home Department (SSHD) accepted that they did not seek to distinguish between the ground of political opinion and membership of a particular social group in the application of the *HJ (Iran)* ratio.

In terms of the application of this rationale to applicants who do not hold any genuine political opinion, the Court of Appeal re-phrased the question as “whether the *HJ (Iran)* protection extends to a person who has no firm political views, but might, if stopped by the militia, be willing to express something more positive than political indifference if that were necessary in order to avoid maltreatment”. The Court explained that it is not a question of law whether an applicant cannot be required to lie on return to his/her country of origin but a question of fact whether there is a risk on return, and if so what the likely behaviour of the applicant will be and the consequences of it.

The SSHD argued that there is a distinction between activities that are core and marginal to the political opinion of the applicant. The SSHD distinguished between the particular facts of this case, where the Appellants do not hold any political opinion and would be required to tell a lie on specific occasions, and the Appellants in *HJ (Iran)* whose sexual orientation went to the core of their identity and who would be required to live a lie and be in a permanent state of denial to avoid persecution. However, the Court of Appeal rejected this argument on the basis that although it accepted that there is a difference between the long-term concealment of one’s immutable characteristic and one-off incidents of having to lie, in the current context this did not result in a material distinction. The Court of Appeal concluded that the Appellants in question are concerned with the risk of persecution on account of their imputed political opinion so whether the activity in question is marginal or central to them is irrelevant and that “if they are forced to lie about their absence of political beliefs, solely in order to avoid persecution, that seems to us to be covered by the *HJ (Iran)* principle, and does not defeat their claims to asylum”. In other words, if the lying is to avoid persecution, it does not matter whether political opinion is central to the applicant or not. The Court specified that it was not about what applicants are “required” to do but what they would do if returned as a question of fact.

<sup>14</sup> <http://www.bailii.org/ew/cases/EWCA/Civ/2010/1285.html>.

<sup>15</sup> <http://www.bailii.org/uk/cases/UKIAT/2008/00083.html>.

<sup>16</sup> <http://www.bailii.org/uk/cases/UKSC/2010/31.html>, see also Women’s Asylum News, Issue 93, July 2010, [http://www.asylumaid.org.uk/data/files/publications/138/WAN\\_July\\_2010.pdf](http://www.asylumaid.org.uk/data/files/publications/138/WAN_July_2010.pdf).

<sup>17</sup> The case of *HJ (Iran)* was concerned with the Refugee Convention ground of “membership of a particular social group”.

Furthermore, and in the context of Zimbabwe, the question is not whether asylum seekers would be prepared to lie but whether they would be able to prove their loyalty to the Mugabe regime.

In light of the Court of Appeal's conclusions, RT's appeal was allowed and her claim for asylum upheld because she was found to be generally credible and the SSHD's decision that she could "explain" her lack of political activity abroad was insufficient because the real question is whether she would be forced to lie and whether she would be able to demonstrate loyalty to the Mugabe regime. SM's appeal was allowed and her case remitted to the Upper Tribunal for redetermination because due to her overall lack of credibility it is the Tribunal's role to re-determine the right question of whether she would lie on return and be able to prove her loyalty to the regime. AM's appeal was allowed and also remitted to the Upper Tribunal for redetermination because he was found not to be a credible witness but the Tribunal had failed to consider whether he would be able to show his loyalty to the regime. DM's appeal was dismissed, however, on the ground that the Tribunal had reached a rational conclusion that he would not be at risk of persecution on return in the specific circumstances because he would be able to demonstrate the required level of support for Mugabe through his parents' long-term support for the regime.

The Court of Appeal concluded that the situation in Zimbabwe is "exceptional" and that in most other contexts the Appellants' claims for asylum would be "hopeless".

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## National News

### The European Parliament has approved the EU Directive against Trafficking

The European Parliament has now formally approved a new Directive to strengthen the fight against human trafficking and sexual exploitation and provide victims of trafficking with more substantial rights and protection. As the European Council, composed of member states' governments, has already expressed agreement to the text the Directive is likely to be adopted early in 2011. The UK will then have a second chance to decide whether to opt-into the Directive. In this regard, it is interesting to note how UK Members of the European Parliament (MEPs) voted, where 51 MEPs voted for, 3 MEPs abstained,<sup>18</sup> 10 MEPs did not vote, and only 8 MEPs voted against.<sup>19</sup>

The European Commission has appointed Myria Vassiliadou, currently Secretary General for the European Women's Lobby (EWL) as the EU Anti-Trafficking Coordinator whose role will be to coordinate all aspects of EU policies on trafficking. Her role will also be to improve coordination and coherence between EU institutions, EU agencies, Member States, third countries and international actors. She will help elaborate existing and new EU policies relevant to the fight against trafficking and provide overall strategic policy orientation for the EU's external policy in this field.

To read the full article see: [http://www.europarl.europa.eu/news/public/focus\\_page/008-106348-001-01-01-901-20101203FCS06328-01-01-2006-2006/default\\_p001c004\\_en.htm](http://www.europarl.europa.eu/news/public/focus_page/008-106348-001-01-01-901-20101203FCS06328-01-01-2006-2006/default_p001c004_en.htm).

For the voting results see "Results of roll-call votes available" from 14 December 2010 at pp. 72-73: <http://www.europarl.europa.eu/sed/votingResults.do>.  
<http://europa.eu/rapid/pressReleasesAction.do?reference=IP/10/1715&format=HTML&aged=0&language=EN&guiLanguage=en>.

For more information about the EU Directive against Trafficking and the UK see Women's Asylum News, Issue 97, November 2010<sup>20</sup> and Issue 96, October 2010.<sup>21</sup>

<sup>18</sup> 2 MEPs from the British National Party and 1 MEP from the Democratic Unionist Party (Northern Ireland).

<sup>19</sup> All from the United Kingdom Independence Party.

<sup>20</sup> [http://www.asylumaid.org.uk/data/files/publications/148/WAN\\_November.pdf](http://www.asylumaid.org.uk/data/files/publications/148/WAN_November.pdf).

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## International News

### Afghanistan: Female prisoners at risk of being detained indefinitely

Zarghoona<sup>22</sup> is one of the many female detainees in the southern Afghani province Kandahar who are not allowed to leave prison because of the absence of a male relative who can guarantee that she will not run away from home again, despite having completed her prison sentence. There is no clear guidance in the Afghan penal code on how to treat women and girls who run away from home but they are arrested and prosecuted. While gender-based violence is prevalent and many women have to suffer sexual violence and beatings at home, there is no official structure to support them. On the contrary, seeking justice and referring their cases to the police is widely considered to be futile or even lead to more violence. Escaping the violence by running away is the last resort for them, yet many women are abandoned by their relatives on grounds of family honour, regardless of whether they are the victim or perpetrator of a crime. The Kandahar Women's Affairs Department (KWAD) has created several shelters for women and girls who have nowhere to go, but has yet to establish one in Kandahar.

To read full article see: <http://www.irinnews.org/report.aspx?ReportID=91270>.

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### Cambodia: Violent police crackdown on sex workers

Despite the introduction of legislation against human trafficking and sexual exploitation in 2008, life has hardly improved for Cambodia's female and transgender sex workers. Many sex workers are arrested as the police regularly raid Phnom Penh's streets and parks, and many can tell stories of physical violence, rape and police bribery in custody. Some of those arrested are sent to government-run facilities such as Prey Speu, from where several reports of suspicious deaths, rape and torture have emerged in the past two years. Human Rights Watch says the vague terminology of the legislation, which makes it easy for officials to abuse sex workers, needs to be addressed urgently and has called for the closure of detention facilities such as Prey Speu.

To read full article see: <http://www.hrw.org/en/news/2010/12/01/violence-against-cambodia-s-sex-workers?tr=y&aid=7442600>.

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### Indonesia: Local Sharia laws infringe individual human rights

Two local Sharia laws in the province of Aceh violate rights under both Indonesian constitutional protection and international human rights law, according to Human Rights Watch. The prohibition of "seclusion" makes association of individuals of the opposite sex a criminal offence in some circumstances. This can involve merely sitting and talking in a quiet space with a member of the opposite sex without being married or related. Both public officials and community members have been reported to enforce this law in abusive ways, including aggressive interrogation of suspects and rape and virginity examinations on women and girls.

While in theory applying to everyone, the law imposing public dress requirements on Muslims mainly affects women. It obliges them to cover their entire body except for hands, feet, and face and prohibits clothing which reveals the shape of the body. Women are regularly stopped by the Sharia police

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<sup>21</sup> [http://www.asylumaid.org.uk/data/files/publications/143/WAN\\_October.pdf](http://www.asylumaid.org.uk/data/files/publications/143/WAN_October.pdf).

<sup>22</sup> Not her real name.



established to monitor compliance with the laws, having their personal details recorded and being threatened with detention or lashing if they repeat their behaviour.

To read full article see: <http://www.hrw.org/en/news/2010/11/29/indonesia-local-sharia-laws-violate-rights-aceh?tr=y&aid=7448232>.

To read full report see: <http://www.hrw.org/en/reports/2010/12/01/policing-morality-0>.

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### **Iraq: Kurdish government promises to tackle honour killings**

The Kurdish Prime Minister Barham Salih reaffirmed his commitment to end gender-based violence at a conference celebrating the International Day for the Elimination of Violence Against Women in November, calling the practice a 'result of social backwardness and patriarchal domination'. According to the Doaa Network Against Violence, over 12,000 women died in honour-based killings in the conservative northern region of Iraq between 1991 and 2007. However, accurate figures on gender-based violence are difficult to gather because it is typically considered a 'family affair' and rarely reported. In 2008, the regional government approved a law classifying honour killings as murder, but enforcing it remains an issue today because of weaknesses in law enforcement.

To read full article see: <http://www.irinnews.org/report.aspx?ReportID=91216>.

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### **South Africa: GBV plays key role in increase of HIV infections**

Gender-based violence has been identified as a major cause in the spread of HIV/AIDS in South Africa's province of the Eastern Cape. According to the Ikhwezi Lokusa Wellness Centre in East London, an organisation providing care, psycho-social support and medical treatment to people living with HIV/AIDS, women in the province are often sexually abused and raped under the banner of culture and tradition. Exposed to regular harassment by partners, relatives and other male contacts, some women find themselves giving in to sexual advances even in situations where they are aware it could compromise their health. Women considered they could not refuse sex if their partner had paid lobola to the family or to secure a place to live. This article coincides with the publication of a survey which found that more than one in three South African men admit to having committed rape and more than three say they had perpetrated violence against women.

To read full article see: [http://womensphere.wordpress.com/2010/12/08/gender-based-violence-has-played-a-major-role-in-the-spread-of-hivaids-in-the-province-leaving-women-and-young-girls-powerless-to-avoid-infection/?utm\\_source=feedburner&utm\\_medium=email&utm\\_campaign=Feed%3A+Womensphere+%28womensphere%29](http://womensphere.wordpress.com/2010/12/08/gender-based-violence-has-played-a-major-role-in-the-spread-of-hivaids-in-the-province-leaving-women-and-young-girls-powerless-to-avoid-infection/?utm_source=feedburner&utm_medium=email&utm_campaign=Feed%3A+Womensphere+%28womensphere%29).

For further information see: <http://www.guardian.co.uk/world/2010/nov/25/south-african-rape-survey>.

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### **Uganda: Women with disabilities facing discrimination and abuse**

Women in Uganda living with disabilities are often not only ostracised by their communities and abandoned by their husbands, but also at risk of being attacked and sexually abused. Due to their isolation and their disabilities they are unable to physically defend themselves, making them easy targets of attacks. More than one third of women and girls with disabilities interviewed for a recently published report by Human Rights Watch said they had been sexually abused, raped or beaten.

Approximately 20 percent of Ugandans live with disabilities, with the figures likely to be higher in the war-torn north where the lack of access to health care has given way to diseases like polio and many people have lost the use of limbs due to landmines or gunshot wounds.

To read full article see: <http://www.hrw.org/en/news/2010/12/01/ednas-story>.

To read full report see: <http://www.hrw.org/node/92611>.

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## **Zimbabwe: Minimal protection from gender-based violence by police**

Women in Zimbabwe who report domestic and gender-based violence are often sent back to their abusive husbands by the police. Gender activists and the Gender Ministry successfully pushed a Domestic Violence Act through parliament three years ago, but recent reports demonstrate that there is still a wide gap between the interpretation and enforcement of legal provisions created to protect women from gender-based violence (GBV). Efforts to combat GBV at local level are often dismissed as being ineffective by women who say that they are largely ignored by men. However, efforts have been made to give the issue increased prominence in the constitution-making process as research showed that domestic violence accounted for more than 60% of murder cases in Harare's High Court and because of the general costs of GBV to the nation.

To read full article see: <http://ipsnews.net/news.asp?idnews=53715>.

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## **New Publications**

### ***Summary Conclusions: Asylum-Seekers and Refugees Seeking Protection on Account of their Sexual Orientation and Gender Identity***

**UNCHR Roundtable, Geneva, 30 September – 1 October 2010**

The UNHCR has published the summary conclusions of its expert roundtable on the protection of lesbian, gay, bisexual, transgender and intersex (LGBTI) asylum-seekers and refugees. Welcomed as a positive step towards addressing these issues by Human Rights First, the roundtable sought to identify current gaps in the protection and legislation of asylum claims related to sexual orientation and gender identity. The discussions covered general considerations such as non-discrimination and specific considerations such as refugee claims based on sexual orientation and gender identity, protection in the cycle of displacement and durable solutions.

The Conclusions recognise that LGBTI persons are entitled to all human rights on an equal basis with others and that the principle of non-discrimination should permeate the application and interpretation of the Refugee Convention. In terms of refugee claims, recommendations are made on the difficulties associated with establishing the absence of state protection, the absence of LGBTI-specific country of origin information, the need to inform LGBTI asylum seekers of their right to claim asylum on sexual orientation and gender identity grounds, the need to ensure confidentiality and privacy during interviews, the need to avoid negative credibility findings on the basis of late disclosure, the need to ensure sensitive questioning during interviews and the need to keep detailed statistics on LGBTI asylum claims.

To read the Summary Conclusions see: <http://www.unhcr.org/cgi-bin/texis/vtx/refworld/rwmain?docid=4cff99a42>.

To read UNHCR's Discussion Paper see: <http://www.unhcr.org/cgi-bin/texis/vtx/refworld/rwmain?docid=4cff9a8f2>.

To read the paper submitted for the discussion by Human Rights First see: [http://www.humanrightsfirst.org/wp-content/uploads/pdf/Persistent-Needs\\_LGBTI\\_Refugees\\_FINAL.pdf](http://www.humanrightsfirst.org/wp-content/uploads/pdf/Persistent-Needs_LGBTI_Refugees_FINAL.pdf).

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***Regional approaches to trafficking in women in South-East Asia: the role of national human rights institutions and the new ASEAN human rights body***

**Olivia Khoo, Australian Journal of Human Rights, Vol. 15(2), 2010**

The article outlines the ways in which national human rights institutions have created networks to combat the trafficking of women in South-East Asia and looks at the role of recently established regional networks and bodies in cross-border cooperation on the issue. Khoo points out that a clear, unambiguous definition of trafficking in women is still missing not only from national legislation but also international conventions and policies, which inevitably leads to a lack of accurate data. Furthermore, she draws attention to the role of the US as a major aid donor to the region and how this influences the regional efforts to create anti-trafficking legislation which takes into account economic and social factors. Finally, Khoo looks at the potential of strengthening regional labour and migrant rights in order to combat trafficking more effectively.

To read the full article see: <http://www.austlii.edu.au/au/journals/AJHR/2010/3.pdf>.

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***Refugee Women in Britain and France***

**by Gill Allwood<sup>23</sup> and Khursheed Wadia<sup>24</sup>**

**Manchester: Manchester University Press, 2010**

The book *Refugee women in Britain and France* by Gill Allwood and Khursheed Wadia aims to provide a synthesis of sparse literature on the lives of refugee women in Britain. It notes that there are many small-scale qualitative studies on the subject but that there are many gaps in knowledge on women's particular experiences.

The chapter on *Refugee Women in Britain* aims to centralise the findings of Government, NGOs and academic studies in this area. It takes a chronological look at women asylum seekers' experiences from their arrival through to integration or removal. The book generally highlights the fact that women asylum seekers and refugees face additional problems which are often overlooked by policy-makers, and emphasises that research on women asylum seekers and refugees is essential to inform policy-makers and service providers. Allwood and Wadia point out the lack of gender impact assessment on UK immigration and asylum policy.

The chapter on *Refugee Women in Britain* shows that women are particularly vulnerable while their legal status is uncertain and that research has demonstrated that the gender guidance in place is not implemented during the arrival, reception and asylum procedure in the UK. The review looks at the impact of dispersal on women seeking asylum from the unavailability of specialist services, to being driven into homelessness and feeling isolated and lonely. The review notes research concluding that

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<sup>24</sup> Senior Research Fellow at the Centre for Research in Ethnic Relations, University of Warwick.

asylum seeking women are at greater risk of domestic violence because they are unable or unwilling to separate from their partners and because domestic violence is aggravated by the circumstances of the asylum process itself due to inadequate housing or insufficient support. The chapter also looks at research undertaken on racism and hostility in the UK against asylum seekers and refugees in general, poverty and destitution, and detention. It highlights the particular problems faced by asylum seekers with gender-related claims for asylum in the Detained Fast Track process and reviews detention conditions for women asylum seekers, including those who are pregnant or breast-feeding.

Refugees are the most unemployed and underemployed group in the UK. Within the refugee and asylum seeker population, 50% of women are the head of their household. However, women refugees face barriers to employment such as difficulties getting qualifications recognised and accessing training and English language classes. Women refugees are particularly hampered in their search for employment by a lack of proficiency in English and childcare responsibilities. Furthermore, employment levels of refugee women are lower than refugee men.

The chapter also looks at the provision and accessibility of health care and notes the lack of understanding by health care professionals of refugees and asylum seekers' entitlements to health care. The language barriers also make it very difficult for women asylum seekers and refugees to access appropriate health care, and the provision of mental health care to refugees and asylum seekers is largely left to the voluntary sector. The breadth of materials covered in this chapter is to be commended.

The book concludes amongst others that there is a gap between guidance and practice in the UK in relation to admission and treatment of refugee women. This has resulted in asylum seeking and refugee women not being offered expected levels of legal protection and practical help within reception and settlement procedures and processes.

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## UK Training and Events

*UNHCR and the Institute of Advanced Legal Studies are pleased to inaugurate the following seminar on International Refugee Law to mark the 60th anniversary of UNHCR and the Refugee Convention*

***“Family reunification of refugees and trans-jurisdictional marriages: a United Kingdom case study”***

**Tuesday 15 February 2011, 5.30pm, Admission Free – All Welcome**

Dr Prakash Shah, Queen Mary University of London

Venue: Institute of Advanced Legal Studies, 17 Russell Square, London WC1B 5DR

If you wish to attend please RSVP to [IALS.Events@sas.ac.uk](mailto:IALS.Events@sas.ac.uk).

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### ***Using CEDAW in the UK***

**Thursday 3rd February 2011– Cardiff,  
Thursday 10th February 2011– Birmingham,  
Wednesday 16th February 2011–Manchester,  
Friday 25th February 2011- Newcastle**

**12 / ISSUE 98 / December 2010 – January 2011**

Women's Resource Centre (WRC) and Equality and Human Rights Commission (EHRC) are running regional training on the UN Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) in February 2011.

CEDAW is a powerful international women's rights instrument for gender equality and human rights that operates alongside national mechanisms (like the Single Equality Duty and the Human Rights Act). This event will help you think about how your organisation can use CEDAW to give you a stronger voice both locally and nationally.

The training will raise awareness about CEDAW, the Optional Protocol (a direct route for women to complain to the UN) and the obligations of the Government to report to the UN on how CEDAW has been implemented in the UK. Attendees will also have the opportunity to learn about other international human rights instruments and mechanisms to support work locally and will be involved in a consultation to produce a shadow report that will be submitted to the UN in 2012, as well as networking with regional organisations.

There will also be the opportunity to receive training from Rights of Women on how to use CEDAW and other human rights instruments specifically in work around violence against women (Birmingham, Manchester and Newcastle only).

This training is for women's voluntary and community sector organisations that want to learn, or increase their learning, on how to use CEDAW as a lobbying tool to influence policy. Individual service users of women's sector organisations and activists, who are interested in campaigning about discrimination against women, as well as gender equality leads within an organisation or advice agency, would also benefit from this training.

**How to Book:**

This training is free and there are a limited number of bursaries available for women. Please contact [charlotte@wrc.org.uk](mailto:charlotte@wrc.org.uk) if you would like to apply for a bursary place.

Please register your interest in the event by contacting [charlotte@wrc.org.uk](mailto:charlotte@wrc.org.uk) by email or call 020 7324 3042, stating your name, organisation and which event you would like to attend. You will then be sent a booking form and further information.

For more information see [http://www.wrc.org.uk/training\\_events/wrc\\_events\\_training.aspx](http://www.wrc.org.uk/training_events/wrc_events_training.aspx).

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***ELATT Refugee Project: Supporting Refugee Women***

East London Advanced Technology Training (ELATT) Refugee project is providing FREE educational support and guidance to refugee women in a safe and welcoming environment where refugees of various nationalities can meet and provide mutual support to each other.

For more information visit their website [www.elatt.org.uk](http://www.elatt.org.uk) or call them on 020 7275 6750.

## *Charter of rights of women seeking asylum*



**Endorsements: 215**

**Google group membership: 127**

### **UKBA/ Charter liaison – a report on the first year**

Following the Every Single Woman campaign a year ago, a process of engagement was agreed between UKBA officials and Charter endorsers. This has provided a forum for active negotiations involving twenty NGOs, coordinated by Asylum Aid. At the beginning of 2011 it is encouraging to look back and see how much this has achieved during the first year.

In January 2010, UKBA implemented the Charter's first recommendation and appointed a member of their senior management team as Gender Champion - Matthew Coats, Head of Immigration.

Gender issues have now been included in the Asylum Improvement Project, the review of the UK's asylum system set up following the Coalition Government agreement. This is looking at ways of increasing productivity and efficiency in the asylum process, and of making decisions that are better and more sustainable.

Asylum determination system: A revised Asylum Instruction on gender issues in the asylum claim was published in September, with the revisions to be implemented through UKBA training and audit programmes.

Support and accommodation: The UKBA agreed that pregnant women will not be dispersed if their baby is due within 6 weeks or less.

Detention: following a suggestion in the Every Single Woman campaign, the UKBA has agreed to review which Prison Service policies regarding women are relevant to the UKBA Detention Services. They are also to undertake gender equality impact assessments on all Immigration Removal Centres and Short-term Holding Facilities that house women.

The Home Secretary has included women asylum seekers in her Call to End Violence against Women and Girls, published in November 2010. This will be followed by an action plan for publication in March 2011 which should also include provision for the needs of women seeking asylum.

<http://www.homeoffice.gov.uk/publications/crime/call-end-violence-women-girls/vawg-paper?view=Binary> (pages 15-16).

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:  
[www.asylumaid.org.uk/pages/give\\_now.html](http://www.asylumaid.org.uk/pages/give_now.html)  
OR send it to us by post with this form:

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

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

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