



**Asylum Aid's submission to
the Joint Committee of Human Rights
consultation on
Violence Against Women and Girls**

March 2014

About Asylum Aid

Asylum Aid is an independent, national charity working to secure protection for people seeking refuge in the UK from persecution and human rights abuses abroad. We provide free legal advice and representation to the most vulnerable and excluded asylum seekers, and lobby and campaign for an asylum system based on inviolable human rights principles. The Women's Project at Asylum Aid strives to obtain protection, respect and security for women seeking asylum in the UK by providing specialist advice and research and campaigning on the rights of women seeking asylum. Asylum Aid was highly commended in the Charity Awards 2010.

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Key issue

1. Asylum Aid's response to the Joint Committee on Human Rights focuses on one issue of interest to the Committee: the impact of the Government's current and proposed immigration and asylum policies on victims of violence against women and girls, particularly with regard to the obligations contained in Chapter VII of the Istanbul Convention and the recent CEDAW Concluding Observations.
2. Our particular focus is on how women seeking asylum in the UK are left vulnerable to violence against women and girls (VAWG) because of poor quality decision-making in women's asylum claims.
3. A woman asylum seeker may flee her country of origin for political reasons or because of VAWG. Once in the UK, she is more likely than a man to get the wrong initial asylum decision. If her asylum claim and appeals are refused, her accommodation and support will be withdrawn by the Home Office (unless she has children or exceptional circumstances). This is likely to leave her destitute. Once destitute she is at risk of and may experience VAWG in the UK.
4. Despite the UK's engagement with the Committee on the Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW) and the signing of the Council of Europe Convention on Preventing and Combating Violence Against Women (the Istanbul Convention), Asylum Aid and others have produced clear evidence that although the policies and training of the UK comply with these Conventions, there is a systemic failure of implementation in practice.
5. Whilst the CEDAW Committee in its Concluding Observations 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"¹ this does not take into account the evidence below which demonstrates that such training regularly fails to result in decision-makers implementing their learning in practice.
6. Article 60 of the Istanbul Convention provides clear obligations on states to ensure that gender-based violence against women be recognised as a form of persecution under the Refugee Convention and as a form of serious harm giving rise to complementary/subsidiary protection; that a gender sensitive interpretation is given to each of the Refugee Convention grounds leading to the granting of refugee status if the persecution feared is for one or more of these grounds; and that there should be gender guidelines and gender-

¹ CEDAW Concluding Observations on the seventh periodic report of the United Kingdom of Great Britain and Northern Ireland. 26 July 2013, para 59 (a)

sensitive asylum procedures in refugee status determination. Through its policy and guidelines, particularly its gender guidelines,² the UK does fulfil these obligations. However, in terms of practice, the evidence below shows that there is a systemic failure to implement this policy and guidance.

Context

7. Asylum Aid believes that women asylum seekers are discriminated against both for being women and for being asylum seekers. Thus, VAWG that is recognised as a problem in the context of international development stops being a problem when the woman arrives in the UK. And VAWG that is recognised as a problem for a British woman in the UK is not recognised as a problem if it happens to a woman abroad who then seeks protection here.³
8. This is demonstrated by the fact that the UK's standards for dealing with VAWG in relation to women seeking asylum compare poorly with those for women experiencing VAWG in the UK or abroad.
9. In the UK, the criminal justice system reforms for dealing with victims of rape and domestic violence, forced marriage and FGM have been developed for over a decade by the legislature, Police, Crown Prosecution Service (CPS) and judiciary. Although the systems are by no means perfect, there is a greater recognition of VAWG and more admissions when they go wrong. The most senior police and CPS professionals regularly speak in public about the need to believe victims of rape. The most senior Ministers have strengthened legislation on FGM and forced marriage and committed funding to their elimination.
10. At an international level, the Department for International Development and the Foreign and Commonwealth Office are responsible for major initiatives to protect women abroad from sexual violence (eg the Foreign Secretary's initiative on Preventing Sexual Violence in Conflict which has been extended to the G8). There is an obvious irony in the government's increased focus on VAWG within international development work when the UK does not provide protection to those same women if they claim asylum in the UK.
11. This lack of joined up government and lack of due diligence is reflected in the Government's Strategy to End Violence Against Women and Girls where action points relating to women seeking asylum were only added following a major campaign, Missed Out, run by the *Charter of Rights of Women Seeking*

² UK Border Agency. 2010. *Asylum Instruction on Gender Issues in the Asylum Claim*. www.gov.uk/government/uploads/system/uploads/attachment_data/file/257386/gender-issue-in-the-asylum.pdf

³ Singer, D (2013) *Women seeking asylum – failed twice over* in Rehman, Y. et al (eds) *Moving in the Shadows: Violence in the lives of minority women and children*, pp 225 - 243

Asylum during the winter of 2012. The *Charter* is supported by nearly 350 organisations including national and local refugee, women's, grassroots and human rights organisations as well as unions and faith groups. These organisations believe that women should be treated as women and protected from VAWG whatever their immigration status.

12. However, despite the Government's VAWG strategy's emphasis on protection, destitute women asylum seekers are not protected from VAWG.

Evidence - poor quality decision-making in women's asylum claims

13. One third of people applying for asylum in the UK each year are women: a proportion that has remained constant since 2003. In 2012, 6,071 women claimed asylum in their own right, out of a total of 21,785 asylum seekers. Roughly one third of women are granted asylum initially, one third on appeal and one third are refused at all stages. In 2012, one quarter of all women applying in their own right were from Pakistan and Iran, with other significant numbers coming from Nigeria, Eritrea, China, Sri Lanka and Somalia, countries where there are particular concerns about lack of state action to protect women from VAWG.
14. According to the Home Affairs Select Committee "Women are less likely than men to receive a correct initial decision on their asylum claim."⁴ In 2011 Asylum Aid's research demonstrated this for the first time and showed that cases were overturned on appeal because of poor credibility assessments.⁵ Subsequent research by UNHCR and by Amnesty International UK demonstrated problems with credibility assessments in men's and women's asylum claims in the UK.⁶ This research all points to a culture of disbelief operating within the UKVI.
15. This research also raised the concern that in undertaking credibility assessments, decision-makers appear not to be using the lower standard of proof which is reasonable likelihood of persecution on return. Using too high a standard of proof is particularly relevant to women as many women are persecuted in the private sphere and so do not have documentary evidence of this harm and might be at risk if they asked for state protection. In addition, it may be difficult for them to provide coherent, consistent, chronological

⁴ House of Commons Home Affairs Committee. October 2013. *Asylum*. Seventh report of session 2013. Para 46

⁵ Asylum Aid (2011) *Unsustainable: the quality of initial decision-making in women's asylum claims*, <http://www.asylumaid.org.uk/data/files/unsustainableweb.pdf>;

⁶ UNHCR (2013) *Beyond Proof, Credibility Assessment in EU Asylum Systems*, <http://www.unhcr.org/51a8a08a9.html>; Amnesty International/Still Human Still Here (2013) *A question of credibility: why so many initial asylum decisions are overturned on appeal in the UK*. http://www.amnesty.org.uk/uploads/documents/doc_23149.pdf

narratives due to the trauma they have experienced.⁷

16. Home Office statistics are now disaggregated by sex and continue to show disproportionate overturns for women compared to men⁸ despite UK Visas and Immigration (UKVI) having updated guidance on gender⁹ and credibility¹⁰ and rolled out new training specifically on women's issues for decision-makers.¹¹

Evidence – destitute women asylum seekers put at risk of VAWG

17. Home Office statistics do not include whether gender-based persecution is the basis of a woman's claim. However research shows that between one half and three quarters of women asylum seekers have experienced VAWG either in their country of origin, during transit to the UK, or once in the UK.¹²
18. A woman who has been refused asylum and become destitute will have to rely on the goodwill of friends or on food parcels from churches; she may become homeless and have to sleep on the street. Five years ago, research showed that more than a third of destitute asylum seeking women sleeping outside had experienced sexual assault including rape.¹³ More recent evidence shows that destitute women continue to experience sexual violence and exploitation and engage in transactional activity including sexual activity

⁷ Asylum Aid briefing. February 2014. The Government response to the 7th report from the Home Affairs Select Committee session 2013 – 14 hc 71: Asylum <http://www.asylumaid.org.uk/wp-content/uploads/2014/02/Briefing-by-Asylum-Aid-February-2014-RH-1002.pdf>

⁸ Asylum Aid's submission to Home Affairs Select Committee inquiry into asylum. March 2013, appendix 1 http://www.asylumaid.org.uk/wp-content/uploads/2013/08/HomeAffairsCommittee_AsylumAid.pdf

⁹ UK Border Agency. 2010. *Asylum Instruction on Gender Issues in the Asylum Claim*. www.gov.uk/government/uploads/system/uploads/attachment_data/file/257386/gender-issue-in-the-asylum.pdf

¹⁰ UK Border Agency (2012) *Asylum Instruction, Considering Asylum Claims and Assessing Credibility* https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/257426/considering-protection-.pdf

¹¹ The Government response to the 7th report from the Home Affairs Select Committee session 2013 – 14 hc 71: Asylum. December 2013, Para 11 <http://www.official-documents.gov.uk/document/cm87/8769/8769.pdf>

¹² Scottish Refugee Council and London School of Hygiene and Tropical Medicine. 2009. *Asylum Seeking Women, violence and health* <http://genderviolence.lshtm.ac.uk/files/2009/10/Asylum-seeking-Women-Violence-and-Health.pdf>; Refugee Council. 2009. *The vulnerable women's project: refugee and asylum seeking women affected by rape or sexual violence – literature review* http://www.refugeecouncil.org.uk/assets/0001/7039/RC_VWP-report-web.pdf ;

Dorling, K. et al, 2012. *Refused: the experiences of women denied asylum in the UK*, Women for Refugee Women <http://www.refugeewomen.com/images/refused.pdf>

¹³ Diane Taylor. 2009. *Underground Lives: An Investigation into Survival Strategies of Destitute Asylum Seekers in the UK*. PAFRAS

to get a roof over their head.¹⁴ In an in depth study of women seeking asylum, Women for Refugee Women found that of those refused asylum (67 women), 67% had been made destitute and of those who were made destitute 16% had experienced sexual violence whilst destitute.¹⁵

19. In addition, women may face destitution because of gender-related reasons. Pregnancy or the birth of a child, domestic violence or sexual exploitation are the main causes of women being forced out of their accommodation.¹⁶

20. Case study

Saron's story (extract)¹⁷

"I came because I had to. I would never have chosen to leave my family, everything I love about my country, the sunshine, the music, the food that tastes good in your mouth. When they refused me asylum the money stopped and I didn't have a place to live. The girl I met in the hostel let me sleep on her floor for a while, but then she was sent out of London and I didn't know anyone else. Where did I sleep? Rough. I think I went mad. I got confused. I was crying all the time. I had no legal paper to work or stay in the country. I was destitute. I was completely without friends. If you sleep rough, as a woman, men abuse you. They offer you a safe place, a warm place, but then it is like what the policeman did to me in prison."

Recommendations

21. **Implementation and performance management** - the poor quality of credibility assessments persists because policies and training are ignored or overlooked and UKVI management systems fail to prevent this. The UKVI needs to provide a consistent package including line management, performance management, supervision and appraisals systems to probe the results of quality audits, grant/refusal rates and overturn on appeals and ensure that decision-makers use the correct standard of proof in women's cases.

22. **Change of culture** - the Home Affairs Committee report into asylum states "the culture of disbelief ... has no place in fair judgements."¹⁸ To change the culture of disbelief, and to ensure that guidance and training are

¹⁴ Crawley, H. et al. 2011. *Coping with destitution, survival and livelihood strategies of refused asylum seekers living in the UK*, Oxfam

<http://policy-practice.oxfam.org.uk/publications/coping-with-destitution-survival-and-livelihood-strategies-of-refused-asylum-se-121667>

¹⁵ Dorling, K. et al, 2012. *Refused: the experiences of women denied asylum in the UK*, Women for Refugee Women

¹⁶ Asylum Support Appeals Project. 2011. *No credibility: UKBA decision making and section 4 support*. <http://www.asaproject.org/wp-content/uploads/2013/03/no-credibility.pdf>

¹⁷ Dorling, K. et al, 2012. *Refused: the experiences of women denied asylum in the UK*, Women for Refugee Women, page 30

¹⁸ House of Commons Home Affairs Committee. October 2013. Asylum. Seventh report of session 2013, Para 11

implemented, change of practice needs to be supported from the top with far greater leadership and vision. Sarah Rapson, Interim Director of UKVI, has expertise in customer satisfaction and has taken on the role of Gender Champion so Asylum Aid believes she is in a good position to promote a gender-sensitive asylum system and mainstream gender throughout UKVI.

23. **Transfer of learning** – the Home Affairs Committee stated, “At a time when the criminal justice system is finally waking up to the needs of victims of domestic and sexual violence, the asylum system should be doing the same.”¹⁹ The UKVI should liaise with the police and the Crown Prosecution Service (CPS) to see what lessons could be transferred in relation to credibility assessments for women seeking asylum. This is an opportune time as the police and CPS are currently overhauling their own guidance on credibility in sexual offences cases. For example, recent CPS guidance states “Police and prosecutors should therefore look to build a case which looks more widely at the **credibility of the overall allegation** rather than focusing primarily on the **credibility and/or reliability of the child or young person.**”²⁰

24. **Inclusion in VAWG strategy** - If the Government were to establish the rights of women seeking asylum firmly within its VAWG strategy, this would increase the potential for joined up government and due diligence. In practical terms this could include the Home Secretary ensuring that there is regular representation from the Immigration Minister and UKVI at the appropriate level at all VAWG meetings from the Inter-Ministerial Group down. As a matter of principle, there needs to be an understanding of intersectionality and an agreement that there should not be a lesser standard of protection from VAWG for women who have come to the UK seeking protection from human rights abuses than the standard for women settled in the UK or for women in foreign countries.

¹⁹ House of Commons Home Affairs Committee. October 2013. Asylum. Seventh report of session 2013, Para 51

²⁰ CPS October 2013 *CPS Guidelines on Prosecuting Cases of Child Sexual Abuse* Para 50, emphasis added. http://www.cps.gov.uk/legal/a_to_c/child_sexual_abuse/#a13