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# Women's Asylum News

Women's Project at Asylum Aid

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## **UN Committee issues new guidance on refugee, stateless and migrant women**

*Jennifer Blair, Barrister at Coram Children's Legal Centre [Migrant Children's Project](#) and the [Using CEDAW, Bringing Women's Rights Home Project](#).*

The UN Convention for the Elimination of All Forms of Discrimination Against Women – known as CEDAW – was ratified by the United Kingdom in 1986. CEDAW is designed to provide holistic protection for women's rights and the United Kingdom is obliged to report to the CEDAW Committee on the implementation of CEDAW every four years. The United Kingdom reported most recently in 2013 and was examined by the Committee in July 2013 in Geneva.

Under Article 21 of CEDAW the Committee is given responsibility for reporting on trends that come out of their work and they in part do this by producing General Recommendations, designed to be authoritative guidance on the interpretation of the treaty.

On 5 November 2014 the CEDAW Committee issued [General Recommendation No.32](#) (CEDAW/C/GC/32) on the gender-related dimensions of refugee status, asylum, nationality and statelessness of women.

This General Recommendation is the long-awaited result of lobbying by the UNHCR and others to encourage CEDAW to articulate the overarching gender dimension which is silent in other international treaties governing the international law on displaced and migrant women, including the Refugee Convention. In July 2009 the first ever joint seminar took place between the CEDAW Committee and the UNHCR, which concluded in an agreement that a relevant General Recommendation would be issued. A summary of the UNHCR's concerns from this joint seminar were set out in [Issue 89](#) of Women's Asylum News and the full [UNHCR paper](#) .

### **General Comment No.32**

General Comment No.32 situates CEDAW within the context of the Refugee Convention, the principle of non-refoulement, examines the impact of Articles 1-3, 5, 7, 9, 10-13, 15 and 16 of CEDAW in this context and goes on to make specific recommendations from paragraph 35. The recommendations focus on the obligations of states to prevent gender discrimination and the duty of states to exercise 'due diligence' to address and investigate discriminatory practices.

The Refugee Convention provides for refuge to be granted where a person has a well-founded fear of persecution for reasons of "race, religion, nationality, membership of a

particular social group or political opinion". General Recommendation No.32 states that firstly all these grounds should be interpreted in a gender-sensitive way and secondly states should domestically recognise sex/gender/LGBT status as free-standing grounds for claiming asylum (see paragraphs 13, 30 and 38).

General Recommendation No.32 goes on to emphasise that internal relocation/flight can only be considered as an alternative for women where a strict plan has taken place looking at the practical realities for women in the particular country (paragraphs 28-29).

Asylum seekers should be provided with an adequate standard of living, which includes access to education (paragraphs 33 and 48).

Pregnant women and nursing women should not be detained in immigration detention; detention should be avoided, but where it is unavoidable, the failure to meet gender specific needs in detention can constitute discrimination against women.

### The asylum process

General Recommendation No.32 is particularly strong in setting specific standards required for asylum seeking women. As an extract, paragraph 50 states:

*"States parties should institute gender-sensitive procedural safeguards in asylum procedures to ensure that women asylum seekers are able to present their cases on the basis of equality and non-discrimination. States parties should ensure:*

*(a) That women asylum seekers have the right to an independent claim to asylum and, in this respect, to be interviewed separately, without the presence of male family members, so that they have the opportunity to present their case;*

*(b) That women asylum seekers are provided with information about the status of the determination process and how to gain access to it, in addition to **legal advice, in a manner and language that they understand. They should be informed of the right to and, upon request, be provided with, a female interviewer and interpreter;***

*(c) That women asylum seekers have access to competent legal representation in advance of the initial asylum interview. Where necessary, they should be afforded legal assistance free of charge. **Unaccompanied and separated girls must in all cases be assigned a qualified legal representative and a guardian to assist them through the asylum procedure and ensure respect for their best interests;***

*(d) That **interviewers use techniques and procedures that are sensitive to gender, age and other intersectional grounds of discrimination and disadvantage that***

compound the human rights violations that women refugees and asylum seekers experience;

(e) That a **supportive interview environment** is established so that the claimant can provide her account, including disclosure of sensitive and personal information, especially for survivors of trauma, torture and/or ill-treatment and sexual violence, and that sufficient time is allocated for interviews;

(f) That **childcare is made available** during the interviews so that the claimant does not have to present her claim, involving sensitive information, in front of her children;

(g) That, while the woman asylum claimant normally bears the burden of proving her asylum case, **the duty to ascertain and evaluate all the relevant facts is shared** between the claimant and the examiner. The threshold for accepting asylum applications should be measured not against the probability but against the reasonable likelihood that the claimant has a well-founded fear of persecution or that she would be exposed to persecution on return;

(h) That, **in some cases, it may be for the examiner to use all the means at his or her disposal to produce the necessary evidence in support of the application**, including by seeking and gathering gender-relevant information from reliable governmental and non-governmental sources on human rights in the country of origin;

(i) That **late disclosure** by the claimant during the asylum procedure of sexual violence and other traumatic events does not automatically lead to an adverse judgement on her credibility. Reluctance to identify the true extent of the persecution suffered or feared may stem from feelings of shame, stigma or trauma. Statements regarding the confidential nature of interviews, including that information provided by the woman will not be shared with members of her family without her consent, should be standard practice;

(j) That mechanisms for referral to **psychosocial counselling** and other support services, where necessary, both before and after the asylum interview, are made available;

(k) That, should the application be rejected, the decision must be reasoned and the claimant should be able to appeal against it to a competent body;

(l) That, in the context of durable solutions, the voluntary return home from exile of refugees and their sustainable reintegration in safety are carried out with dignity

*and the social and economic security of refugees are secured. States who recognized the refugee status of women claimants should ensure that local integration is performed on the basis of equality and non-discrimination and that women are treated with dignity.” (Bold added)*

### **Statelessness and nationality**

General Recommendation No.32 also explicitly addresses the circumstances in which directly or indirectly discriminatory requirements can discriminate against women leaving them stateless or making it substantially more difficult for them to obtain the nationality of their spouse. Requiring women to pass a compulsory language test or meet an income threshold (both requirements at present in the UK for spouses seeking to naturalize) are given as examples of practices that discriminate against women (see paragraphs 55 and 63).

### **Next steps**

Although CEDAW (and therefore the guidance offered by General Comment No.32) are not directly binding in UK courts, they are used to interpret both the European Convention of Human Rights and the Refugee Convention and our own Equality Act 2010 requirements should not be interpreted in ways that are incompatible with CEDAW. It will therefore be interesting to see how women’s rights campaigners and lawyers use CEDAW to reinforce the calls for equality for migrant women championed by Asylum Aid and others.

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## **Sector Update**

### **Still Human Still Here critiques Home Office Country Guidance on Pakistan**

Still Human Still Here (SHSH) has published a [critique](#) of the Home Office’s [Country Information and Guidance](#) (CIG) on Pakistan issued in October this year. The Home Office report acts as guidance for decision-makers handling claims made by Pakistani nationals, and includes crucial information on whether claims are likely to justify the granting of asylum.

The Home Office CIG notes that violence against women and girls remains a serious problem in Pakistan. Rape, acid attacks, domestic abuse, forced marriage, and “honour” killings are some of the assaults against women and girls listed. The CIG also acknowledges that patriarchal attitudes and deep-rooted stereotypes concerning gender roles and responsibilities remain prevalent in Pakistan, and these contribute to the discrimination faced by women and girls.

However, the Still Human Still Here commentary of the CIG report identified several inconsistencies relating to information about the protection available to women fearing gender based violence. The CIG recounts that the police force is unable or unwilling to protect women and girls, viewing it as a 'private matter'. In one section, the CIG states that, in general, state protection is unlikely to be available to women fearing gender based violence, while continuing to assert at a later stage that women are able to seek effective protection.

Due to the ineffectiveness of state protection for victims of gender based violence, the SHSH report emphasises that internal relocation to another safe region of the country may be viable only in some limited cases.

Government run shelters where women can seek protection from gender based violence were found by SHSH to have 'several shortcomings' which the CIG fails to list. However, the CIG does find that there is an inadequate supply as well as mismanagement of these shelters, which are still considered taboo and can further stigmatise victims. Additionally the shelters only offer short-term, temporary protection.

The CIG report does state that prosecutions for rape were found to be rare due to severe stigmatisation, and extrajudicial resolutions to rape accusations, where the victim is often forced by family members to marry her attacker, or in some cases encouraged to commit suicide, are common. The authorities were found to have insufficient training and are prone to use extortion, bribery and coercion to discourage or falsify reporting crimes. Ultimately, women reporting rape are viewed as suspect, and in some cases women face further abuse by police when reporting gender- based violence. There is also a severe lack of female police officers in Pakistan who could provide specialised support during the interview process.

Finally, the SHSH report notes that the CIG does not include UNHCR's [Eligibility Guidelines](#) position on Christian women, and there is a lack of information regarding Christian women and girls who are at particular risk of gender based violence and forced conversion to Islam.

Pakistan represents the number one country of origin for asylum seekers [in the UK in 2014](#).

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### **Rape Crisis Network Ireland focuses on women seeking asylum**

Rape Crisis Network Ireland (RCNI) provides free counselling, advice and support for victims of sexual violence in Ireland. An umbrella body for all member Rape Crisis Centres,

[RCNI's latest report](#) focuses on asylum seekers and refugees. Current estimates place the number of asylum seekers in Ireland at 5000 people of whom only 6% will be granted refugee status. The report points out that the Irish State has an obligation under International human rights instruments to ensure that the most marginalised members of society have access to physical and mental care.

This report presents findings about asylum seeker and refugee survivors of sexual violence who were using Rape Crisis Centres' services in 2012. In doing so the report provides an interesting analysis of the reasons why women have fled their home countries and their situation once in Ireland.

Over half of RCNI's clients were from DRC, Zimbabwe, Nigeria or Uganda. Their experiences included rapes and gang rapes by soldiers or police forces, kidnapping, trafficking, war stories of past child soldiers, FGM, shaming procedures of male circumcision, forced marriages, stories of imprisonment of gay men etc. The report notes they have lost everything that gave meaning to their life, partners, children or relatives, relationships, social structures, cultural values and community rituals, support structures and a material base. Clients told RCNI how difficult life is if you are seeking asylum, restricted in where you can live and not being able to work, and how they developed depression under these circumstances.

RCNI statistics showed that before arriving in Ireland, 41% of their clients had been assaulted by security forces or in locations associated with conflict such as rebel or government detention camps and prisons. Incidences of sexual violence perpetrated against refugee and asylum seekers, were most likely to be perpetrated over periods of years. The high rate of sexual violence in prisons and rebel or government camps is suggestive of sexual violence in conflict situations; however, perpetration of sexual violence during conflict is not confined to combatants, but is also commonly perpetrated by civilians, including intimate partners, within a context of instability and lawlessness.

Ireland uses a system of 'direct provision' (DP) to accommodate asylum seekers through which they are provided with food, accommodation, heat, light, laundry and household maintenance. Adults are given a weekly personal allowance of €19.10 and dependent children an additional €9.60. This allowance is unchanged since 2000. The DP system creates particular difficulties for survivors of sexual violence. Gender imbalances are evident in some DP centres and there are currently no centres that accommodate only women. Single men may be accommodated in rooms next to single women and female-headed single parent families.

The refugee and asylum seeker clients most commonly experienced sexual violence before arrival in Ireland. However, incidents of sexual violence in Ireland included domestic violence, sexual harassment and sexual assault in DP centres, recruitment for prostitution, and trafficking young asylum seekers for the purposes of sexual exploitation.

The asylum seeker clients were found to experience risk or vulnerability to sexual violence that is different to that experienced by other groups in Ireland because of:

- being young
- isolation and lack of support
- Poverty
- sexual harassment in the DP centres
- cultural beliefs about sexual violence and fear of authority figures discouraging disclosure

In order to uphold commitments to international human rights instruments, the report concludes that Ireland must provide services with adequate funds to deliver equal and accessible care to refugee and asylum seeker survivors of sexual violence. This would also offset the long-term medical costs associated with survivors of sexual violence who do not receive adequate psycho-social support.

In addition, this report feeds into the mounting evidence that the current DP system is inappropriate as long-term accommodation for asylum seekers and particularly for survivors of sexual violence and must be reformed with urgency to halt the risk of sexual violence to vulnerable residents and minimise the psychological harm to survivors. The formation of the Working Group on Direct Provision and the inclusion of DP system reform and support for asylum seekers in the [Statement of Government Priorities 2014-2016](#) for Ireland are therefore welcome advances.

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## **National News**

### **Home Office Review of the NRM for Victims of Human Trafficking**

The National Referral Mechanism (known as the NRM) is the process by which people who have been trafficked are identified, referred, assessed and supported by the Government. The process was set up following the signing of the Council of Europe Convention on action against trafficking in human beings (2005). Nearly 7000 people have been referred to the NRM since its establishment.



In April 2014 the Home Secretary commissioned a review of the NRM. This was part of the Government's wider commitment to eradicate slavery and protect victims. Many NGOs throughout the UK engaged in the review.

The [Review of the NRM for victims of human trafficking](#) was published by the Home Office in November 2014 citing the following recommendations:

- To develop a comprehensive awareness strategy to increase recognition of human trafficking via the public and professionals.
- An overhaul of the referral process.
- Providing support based on an assessment of the individual needs of the victim.
- A process of conclusive identification of trafficking victims through regional multi disciplinary panels to be tested with a view to ceasing the sole decision making roles of UK Visas and Immigration and UK Human Trafficking Centre and Immigration Enforcement.
- A single management process for trafficking cases to be put in place with accountability lying with the Home Office.
- Improving the collection of data to facilitate progression of cases and contribute to intelligence.

In summary the recommendations are to create a different process from the one which currently exists. The proposed system involves trained and accredited Slavery Safeguarding Leads who will refer cases to a single case management unit, with a multi agency panel making the trafficking decision within agreed time lines.

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### **Labour pledges to end the detention of pregnant women and survivors of rape and torture**

The Shadow Home Secretary, Yvette Cooper has [announced](#) that a Labour government would end the practice of detaining pregnant women, victims of trafficking and women who are survivors of torture or rape, and would order an independent investigation into allegations of abuse at Yarl's Wood detention centre if they win next year's election.

Speaking on Sunday 14 December, Cooper denounced the failure to adhere to guidelines that ought to protect survivors of torture from being detained, and said that, "Oversight of the system needs to be stronger and more staff are needed to ensure claims are processed properly. At the moment, the system wastes money and wastes lives."

Natasha Walter of Women for Refugee Women, who have been running a campaign supported by Asylum Aid to end the detention of refugee women called #SetHerFree, has

[welcomed](#) the opposition party's pledge, saying that it is "long overdue".

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## International News

### Two new reports highlight the situation of displaced women from the Democratic Republic of Congo

Many women who find themselves internally displaced in the DRC are forced to resort to 'survival sex'. A [UNHCR TRACKS report](#) highlights how cuts to humanitarian aid such as food rations leads some of the most vulnerable women resorting to sex work in order to feed themselves and their children. One woman from Masisi, North Kivu explains: "I do this because I have no father, no mother. I lack everything, and this is why I started. While doing this I had a child, and today I don't have the means to live." 900,000 people are still displaced throughout North Kivu Province.

The Democratic Republic of Congo has undergone nearly two decades of chronic violence and instability. Since 1996, the rate of displacement of civilians from the eastern Congo has oscillated from hundreds of thousands to millions; all fleeing the systematic brutality of armed groups who seek to extend their political, economic, and military control. In 2014, the United Nations High Commissioner for Refugees (UNHCR) [reported](#) that 2.7 million people have been internally displaced, with 70,000 fleeing across the border to neighbouring Rwanda and Uganda.

Meanwhile, a [report](#) conducted by the Institute of Domestic Violence & Sexual Assault (IDVSI) at the University of Texas, part funded by UNHCR, analysed the experiences of Congolese refugee women in the US. The United States is the world's top resettlement country, and under its Refugee Admissions Program it plans to resettle 50,000 refugees from the DRC to the US over a five year period from 2014-2019. At least 20% of these are expected to be resettled under the designation of "women-at-risk", [defined](#) by UNHCR as "women who have protection problems particular to their gender and lack effective protection normally provided by male family members". The category was developed to hasten the process of resettlement for the particularly vulnerable demographic of Congolese women and girls, such as those who have reverted to survival sex.

The [UNHCR Resettlement Handbook](#) describes the problems "women-at-risk" face, which include sexual and gender-based violence, abuse, and vulnerability to trafficking or exploitation for purposes of sexual slavery.

The Congolese women who participated in the IDVSI survey reported having experienced significant trauma in the Congo, as their “at-risk” classification highlights, and cited the need for trauma-informed services in their new US communities such as mental health screenings and long-term access to specialized services addressing trauma. Although the integration programs were found to be largely successful, offering civil, political, economic and cultural rights similar to those held by nationals, the Congolese women were shown to face significant integration challenges largely due to the stigma associated with sexual violence and gender-based exploitation.

Under the equivalent resettlement programme in the UK, the [Gateway Protection Programme](#) instigated by the UK Visas and Immigration in partnership with UNHCR, 750 refugees from any country of origin will be legally allowed to come to the UK. All the successful applicants will be chosen based on their individual cases, with no special consideration for the “women-at-risk” category.

In January of 2014 following increasing pressure, the Home Secretary announced that the Government would establish the “[vulnerable person relocation scheme](#)” to 500 of the most vulnerable Syrian refugees.

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## UK Training and Events

### **Working with Women to Overcome Experiences of Violence**

Counselling and Therapeutic Interventions for Working with Women Overcoming Experiences of Violence: *A Multicultural and Feminist Approach*

Women and Girls Network

On 12<sup>th</sup> February 2015 (12 days)

The program provides an introduction to the issues involved in working with women recovering from traumatic experiences of gendered violence, and is informed by feminist principles and holistic range of therapeutic techniques. The programme combines women-centric modes of healing from a diverse range of cultures to the latest advancements in neuroscience to aid understanding of the psychological responses to trauma.

The programme is structured around a combination of lectures, exercises, roleplays, and multimedia presentations. For more information please visit [www.wgn.org.uk/training](http://www.wgn.org.uk/training)

## Article 4 and Appealing Destitution

Section 4 “Reasonable Steps” appeals

The Asylum Support Appeals Project (ASAP)

Monday 19<sup>th</sup> January 2015 from 1-4pm.

Training will take place at: Esmée Fairbairn Foundation, London N1 9AG

The free workshop will be focused on a piece of research conducted by ASAP in September 2014 on the Home Office policy and practice for Section 4 “Reasonable Steps” appeals. Section 4 ensures support is granted on the basis that a person is taking all reasonable steps to leave the UK, but the appeals process remains ‘inherently complex and extremely fact-sensitive’ according to ASAP.

The report is a continuation of ASAP’s 2008 ‘Unreasonably Destitute’ report which concluded that refused asylum seekers were placed under unreasonable burden to prove eligibility under Section 4, affecting their access to housing and welfare support, potentially causing destitution.

The workshop will explore the law on reasonable steps cases, the key findings of the report, the evidence required to show “reasonable steps” are being fulfilled, and the Asylum Support Tribunal’s approach in these kinds of cases.

To book a place email [Marie-Anne@asaproject.org.uk](mailto:Marie-Anne@asaproject.org.uk)

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## Trauma and Healing

From the margins to the Centre of Women’s Healing: *Promote Recovery to Support Women with Complex Needs*.

Women and Girls Network

18<sup>th</sup> March 2015

The course will introduce developmental trauma and complex trauma stress alongside common clinical presentations of complex needs such as depression and suicidal ideation. The neurobiological responses to trauma will be explored as well as an introduction to strengths and evidence based interventions working holistically to support recovery.

For more information please visit [www.wgn.org.uk/training](http://www.wgn.org.uk/training).

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## Publications

### Women at risk in Syria: New Country Guidance

Syria's civil war has worsened, a third of the population has been displaced and those in need of humanitarian assistance within the country have reached 11 million, according to new [Country Information and Guidance](#) issued by the Home Office this month.

Women travelling between checkpoints seeking food risk physical assault, arrest, and abduction. In some areas armed groups have placed restrictions on the movement of women, confining them to their homes. This leaves women more vulnerable to stray shelling and indiscriminate attacks.

Meanwhile, women's movement is also restricted by the fear of sexual violence, which prevents them from leaving their homes.

Women living in ISIS controlled Syrian territories have been banned from public life. Education for girls after primary school level has been severely restricted, and rates of early and forced marriages are increasing. Stoning on the premise of adultery has also occurred.

In Aleppo, al-Hassakah, Idlib, and Raqqa governorates, armed groups have placed strict dress codes on women and girls, as well as limiting their access to education and employment.

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### A place of sanctuary? Creating a fair and efficient asylum system

[CentreForum's](#) report on the asylum system provides a history and overview and makes recommendations for improvements. The chapter on women recommends:

- The government should commission and implement an independent review on how to deal more effectively and humanely with women's cases. In particular, it should make sure that properly trained female case workers are available to deal with female asylum seekers.
- The government should ensure that the legal aid provisions work in favour of encouraging lawyers towards more complex cases, especially women.
- The Home Office should amend its guidance to ensure that pregnant women are not dispersed. The government should also review the financial provision available to pregnant asylum seekers and increase the level of that support to ensure it is adequate.

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## Charter of rights of women seeking asylum



**Endorsements: 355**

**Google group membership: 176**

### **New Charter campaign to close the Protection Gap**

A third campaign has just been launched under the [Charter of Rights of Women Seeking Asylum](#).

The [Every Single Woman](#) campaign (2009) focused on the gap between standards for women in the criminal justice system and those in the asylum system. It resulted in the UK Border Agency appointing a Gender Champion and developing an action plan to take forward the Charter's recommendations.

The [Missed Out](#) campaign (2012) focused on the fact that women seeking asylum did not feature in the Government's strategy to end Violence Against Women and Girls (VAWG). This resulted in a series of new action points in the [Home Office Action Plan](#) on VAWG.

The new [Protection Gap](#) campaign was launched on 8<sup>th</sup> December 2014. This campaign highlights the inequity between the rights of women seeking asylum and those of other women who experience similar human rights abuses at home or abroad. Thus the measures detailed in the [International Protocol on Investigating Sexual Violence in Conflict](#) which emerged from William Hague and Angelina Jolie's Global Summit in June are not guaranteed for women in the asylum system. The campaign therefore demands the right of women seeking asylum to information and counselling; to an interviewer and interpreter trained in sexual violence, trauma and memory; a female interviewer and interpreter if you prefer and childcare.

Annick's story demonstrates the need for such measures: "I was not being accepted by my husband's family. It was other women who told me this was important to my claim. If the interviewer had been a woman she could have looked at my case from the point of view of a woman, put herself in my shoes... I could have opened up more but my little boy was there."

At the launch of the campaign we provided a detailed [briefing](#) for the Home Office and have been encouraged by their initial positive response. Now we need to ensure we keep up the pressure to ensure the measures we are demanding are implemented.

Please [take action now](#).

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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.

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