

Women's Asylum News

Women's Project at Asylum Aid

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Lodging a Claim for Asylum under the New Procedures: A First-Hand Account

Women's Asylum News would like to thank Lauren Butler, Female Asylum Support Worker at Rochdale Law Centre, for writing this article of her first-hand experience.

The next time you're returning from a holiday, look for the blue-and-white UK Border Agency signs posted around the customs areas. One of them describes the right to lodge a claim for asylum—to seek protection as a refugee in the UK. In the largest ports, like Gatwick Airport, the asylum notice is unmistakable. In smaller ports—Hull, for instance—it's fixed at the far end of the customs hall, with only the capital *A* visible to the naked eye.

But what if you fail to make your claim for asylum at the moment you enter the UK? Maybe you've no idea what *asylum* means. Maybe your friends have told you it's better to get in the country first and then find a solicitor to help you. Maybe you're a victim of female genital mutilation or some other

gender-based abuse and you're convinced the asylum process doesn't apply to you. Or maybe you've paid an agent to get you to safety, and after travelling for hours in the back of a lorry you've been dumped in the middle of a strange city. How do you claim asylum then?

Until 13 October 2009, in-country asylum claims could be lodged in person at Asylum Screening Units in Liverpool or in Croydon—or, in special cases, by post. 90% of all asylum applications were made this way. However, on 14 October 2009, the Home Office announced that in-country initial asylum claims would only be accepted in person at the Asylum Screening Unit at Lunar House in Croydon. There had been no warning, and the new procedure took effect immediately. This means that now anyone wishing to lodge an application for asylum must travel in person to Croydon—with all dependents in tow—just for the purpose of a brief screening interview and the collection of fingerprints and photographs.

Unless you live around London, Lunar House might as well be on the moon. I work in a programme for female asylum seekers in Rochdale, and one of our clients—whom I'll call Jane—recently approached us for assistance in lodging an asylum claim. She was terrified at the prospect of facing the Home Office alone. Thanks to funding we received from Comic Relief, I was able to accompany her and her two children, a girl of twelve and a ten-month-old baby boy, to Lunar House.

When I called the Asylum Screening Unit to make an appointment, the woman on the phone warned me to get there before ten.

"I don't think it's even possible to get from Rochdale to Croydon by ten," I said. "The trains don't run that early. Can we get an appointment later in the day? It says you're open till three."

"We don't make appointments later than ten," she said. "You could just drop in later in the day, but if you show up after ten you could be here till nine or ten at night."

I made an appointment for that Friday and then researched cross-country public transport. Our funding covered my travel costs, but not that of Jane and her children. Getting there by ten meant travelling during peak time, which meant top price for rail tickets. Advance train reservations weren't possible, because who knew when we'd be finished at Croydon?

I sat at home on my sofa that night, surrounded by leaflets and timetables, hoping to find something Jane could afford. Just as I was reading about the overnight bus from Manchester to London and trying to convince myself it might not be too bad, Jane rang my mobile: a benefactor had come through with three hundred pounds, enough for two open-return rail tickets from Manchester to Croydon (the baby travelled for free).

So at four-fifteen on a blustery midsummer morning I left my house and drove to Manchester Piccadilly, where I met Jane and her children. With our luggage—briefcase, pram, and baby bags—we boarded the six-eighteen train for the second leg of our journey. It was the baby's first time on a train and he gaped at the passing scenery, waving and practicing his first word, *bye*, until he conked out.

Four hours and three transfers later, we arrived at Lunar House. Asylum seekers were herded to the third floor, where guards wearing latex gloves saw us through the security barrier. The twelve-year-old's hair clip set off the metal detector and my manicure scissors were confiscated. We were given a number and shown to a high-ceilinged room something like a narrow sports hall, three hundred metres long and twenty metres wide, determinedly dun, filled with metal park benches painted mint green. We sat and faced the row of plexiglass windows, marked 1 through 24, and waited. One by one the windows' shades went up and uniformed officials took their places at computers.

Every few minutes the PA system came on with a feedback shriek like something from a Sex Pistols concert, and then a number was called. When the baby woke and shrieked back, Jane breast-fed him. A man hurried over.

"Nursing facilities are on the first floor," he said pleasantly.

Jane looked at me. I could have helped her down to the nursing room, but what if we missed our number? It would only get more crowded with time, and we might be put to the end of the queue. The phrase *you could be here till nine or ten at night* kept haunting me.

"Sorry, but we're waiting--" I began, and just at that moment our number was called. Window 21. We packed up and moved camp.

The woman behind the plexiglass was mellow and soft-spoken. Unfortunately that meant her voice didn't always carry over the crackling microphone. A Farsi interpreter boomed two feet to our left; at the window to our right, an official scolded an applicant for coming unprepared.

We got through a few questions before the baby got restless again. Jane tried passing him to me but he was having none of that. Jane nursed him and the interview went on.

Two men appeared to install a new printer. We waited. Then a man with a supervisor's bearing stopped by and whispered to our official, who then leaned close to her microphone.

"Sorry," she said, waving her hand at Jane. "There are men working back here. Could you cover up better, or do that later?"

Jane tried to stop but the baby objected. The twelve-year-old girl fetched some blankets from the baby bag and tried to make a tent around her mother. For a short time Jane answered questions with only her worried head visible above a swath of blue fleece, while her daughter stood obligingly holding it all in place. Then the baby started hollering. He was tired of this nonsense. So was I.

It was my first and only bolshy moment of the day. "You go sit down and read your book," I said to the twelve-year-old. "And Jane, you go ahead and nurse him when you need to, and in the way you usually nurse him." I leaned towards the microphone, trying to catch the eye of the supervisor who busied himself at a file cabinet behind our official's desk. "If they're going to require that you bring your baby here on a six hour journey, they can't harass you for nursing him," I said. "If they find it so objectionable then they can interview you in a private room." The baby finished feeding and went to sleep.

The interview took three and a half hours. Or rather, the interview took forty-five minutes or so, with the rest of the time spent waiting while our official entered data, searched for Jane's old immigration records, had a lengthy discussion with her supervisor, and had more people come and sort out her printer.

When the interview was over, our official kindly had a sandwich fetched for the twelve-year-old, who needed to take her medication and eat. Jane and I made do with peanuts and Fanta from the vending machines, as we waited to have our number called for the fingerprinting room.

Jane developed a headache so I took the baby on a walking tour of the room. Half the windows were occupied by them and the mint green benches were filling up. Other babies gurgled and screamed. Two little girls in saris danced by the coffee machine. A group of young Somali women gossiped. A Chinese man in a three-piece suit strummed his knuckles against the back of his bench, making the metal slats ring like a xylophone.

We were called to the fingerprinting room, where Jane and her daughter were photographed and fingerprinted in great hurry. After another wait of several hours, we were called in again, this time to have the baby's photo taken. As Jane sat before the blue screen and positioned him on her lap, the room gradually filled with women workers, who grinned and clapped to make the baby smile. "Bless him," said the photographer. "Those big brown eyes! Go on, let's get another picture."

Once we'd settled on our bench again, we noticed our official rapping on her plexiglass and beckoning to us. The other workers had started doing that as well; they were evidently tired of the PA system too.

"You're free to go," she said, handing Jane her ID cards through the slot and giving her instructions on her next appointment—a substantive interview with the Asylum Team in Liverpool in two weeks' time, where she'd be questioned in detail about her history and her reasons for claiming asylum. She won't have to bring her kids to that one. She'll even have a private room.

As we packed our things I noticed we were the first ones out of there. Maybe our official had hurried things along. Maybe we were just lucky. The baby was feeling valedictory, and had evidently concluded that the whole enterprise had been arranged for his amusement. As a guard escorted us to the lifts, the baby shook his fists, calling, "Bye!" to the people on the benches. Some of them waved back.

In a November 2009 report, the Refugee Council concluded that this new policy is 'a blatant attempt to make the asylum system even more inaccessible'.¹ Jane's case illustrates just how this works: if our private funding hadn't allowed Jane to be accompanied in her journey, and if she had not found a benefactor to purchase her rail tickets, she would not have lodged a claim. She would remain underground, barely subsisting, vulnerable to abuse and exploitation.

The Refugee Council has recommended that the UK Border Agency make it possible for people to make an asylum claim in the regions where they live. Even if just the Liverpool Screening Unit re-opened, it would make claiming asylum accessible and affordable for persons throughout the North West, North East, and Scotland.

*Lauren Butler
Female Asylum Support Worker
Rochdale Law Centre*

Sector Update

Europe: A gender-sensitive Common European Asylum System?

The Belgian Presidency of the European Union has decided to prioritise four EU instruments in the second phase of the Common European Asylum System (CEAS) under the Stockholm Programme. The four recast instruments for which the Belgian Presidency is seeking to obtain agreement are the Reception Directive², the Qualification Directive³, the Procedures Directive⁴ and the Dublin Regulation⁵.

The Qualification Directive sets out the criteria for recognition of applicants as refugees or as beneficiaries of subsidiary protection. It also sets out the rights and entitlements of those who are granted international protection in EU member states. The UK has decided to opt-out of the recast

¹ <http://www.refugeecouncil.org.uk/news/archive/news/2009/November/03112009>.

² Council Directive 2003/9/EC of 27 January 2003 laying down minimum standards for the reception of asylum seekers, <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2003:031:0018:0025:EN:PDF>.

³ Council Directive 2004/83/EC of 29 April 2004 on minimum standards for the qualification and status of third country nationals or stateless persons as refugees or as persons who otherwise need international protection and the content of the protection granted, <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32004L0083:EN:HTML>.

⁴ Council Directive 2005/85/EC of 1 December 2005 on minimum standards on procedures in Member States for granting and withdrawing refugee status, <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2005:326:0013:0034:EN:PDF>.

⁵ Council Regulation (EC) No 343/2003 of 18 February 2003 establishing the criteria and mechanisms for determining the Member State responsible for examining an asylum application lodged in one of the Member States by a third-country national, <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2003:050:0001:0010:EN:PDF>.

Qualification Directive and has stated that it intends to re-evaluate its position once the recast Directive has been agreed. In the sector, efforts have been made to ensure that the recast Directive complies with international human rights and refugee standards and is gender-sensitive.

Asylum Aid in cooperation with the European Women's Lobby and ILGA-Europe have written to Jean Lambert, Green Member of the European Parliament for London, who is the rapporteur for the recast Qualification Directive at the European Parliament.

To read the letter to Jean Lambert see:

http://www.asylumaid.org.uk/data/files/publications/141/EWL_Asylum_Aid_ILGA_Europe_amendment_s_qualification_directive_15092010_EN_final.pdf.

To read Asylum Aid's response to the UK's decision not to be part of the recast Qualification Directive see: <http://www.asylumaid.org.uk/data/files/publications/120/AsylumAidQDLetter.pdf>.

For more information on the Stockholm Programme and the Belgian Presidency see: http://www.eutrio.be/files/bveu/media/documents/The_Stockholm_Programme.pdf.

Legal Issues

Entry clearance for post-flight spouses of refugees: Tribunal requests Immigration Rules be changed

FH (Post-flight spouses) Iran [2010] UKUT 275 (IAC), August 2010, Upper Tribunal – Immigration and Asylum Chamber⁶

This is the most recent of a number of cases engaging with law and policy around the rights of refugees to family unity in the UK.⁷

The appellant was a national of Iran who appealed against the Secretary of State's refusal to grant her entry clearance to the UK as the spouse of the sponsor, an Iranian refugee. The sponsor had been granted refugee status in May 2006 with limited leave to remain in the UK for a period of five years. The sponsor and FH had known each other since 1999 and got married in November 2008 in Turkey. There was no issue in the appeal as to whether their relationship was valid, genuine and subsiding. Further, the sponsor had demonstrated that he had sufficient means to accommodate and maintain FH if she came to the UK.

The Tribunal considered that FH met all the requirements of paragraph 281 of the Immigration Rules⁸ which provides for entry clearance for spouses of persons settled in the UK, save for the fact that the sponsor had been granted five years limited leave to remain as a refugee and was not settled in the UK.

The Tribunal also considered paragraph 352A of the Immigration Rules⁹ that makes special provision for pre-flight spouses of refugees to be granted leave to enter the UK in line with the sponsor. Under this rule, FH could not be granted leave to enter the UK because she was not married to her husband before he fled Iran to claim asylum in the UK.

⁶ <http://www.ait.gov.uk/Public/DeterminationDetails.aspx?Id=2286>.

⁷ See for example the case of *ZN (Afghanistan) (FC) and Others (Appellants)* in The Supreme Court reported in Women's Asylum News, Issue 92, May/June 2010, http://www.asylumaid.org.uk/data/files/publications/131/Final_WAN_May_June1.pdf.

⁸ http://www.ukba.homeoffice.gov.uk/policyandlaw/immigrationlaw/immigrationrules/part8/spouses_civil_partners/.

⁹ <http://www.ukba.homeoffice.gov.uk/policyandlaw/immigrationlaw/immigrationrules/part11/>.

Consequently, FH could not seek entry clearance under either of the rules because her husband was not settled in the UK and because they were not married before he fled Iran. The Tribunal concluded that FH could not succeed under the Immigration Rules and thereby identified a gap in the Immigration Rules that fail to provide a route for entry into the UK for post-flight spouses of refugees who have been granted five years limited leave to remain in the UK and have not yet been granted indefinite leave to remain.

The Tribunal noted that FH was being treated differently from pre-flight spouses of refugees and spouses of those settled in the UK but also from the spouses of other categories of migrants with limited leave to remain, such as students, businessmen and artists even if their marriage took place after the sponsor was granted limited leave to enter in the UK. The Tribunal noted that refugees were therefore in a “particularly disadvantageous position”, especially because refugees were unable to return home to enjoy family life there. The Secretary of State’s justification for the differential treatment was that the UK is entitled to distinguish between post-flight and pre-flight spouses of refugees and between different categories of migrants with limited leave to remain. The Secretary of State also argued that the provisions in the Immigration Rules providing for family reunion for existing/pre-flight spouses of refugees in the UK gave effect to the UK’s international obligations to give protection but ensured that it did not actively seek to encourage asylum seekers to come to the UK. After being challenged on this point by the immigration judge, the Secretary of State conceded that it was not his role to encourage or discourage applicants for asylum but to process their applications in conformity with the UK’s obligations under international law.

The Tribunal also noted that before August 2005, refugees were granted indefinite leave to remain and were therefore able to be joined by their pre-flight spouse under rule 352A and post-flight spouse under rule 281. The Tribunal referred to the case of *A (Afghanistan)* in the Court of Appeal, where Hooper LJ disagreed that there was a public interest in treating post-flight spouses of refugees differently from pre-flight spouses of refugees and other categories of migrants with limited leave to remain.¹⁰ The Tribunal in FH’s appeal agreed that there was no public interest in the current treatment of post-flight spouses of refugees.

The Secretary of State also conceded that because there were no provisions in the Immigration Rules that allowed for entry clearance for post-flight spouses of refugees their applications should be the subject of an individual assessment of the right to respect for family life guaranteed by Article 8 European Convention on Human Rights (ECHR). The Tribunal held that on the particular facts of this case the appeal should be allowed under Article 8 ECHR. The key findings upon which this conclusion was based were that FH met all the requirements of paragraph 281 except the fact that her refugee husband is not settled, that there is no argument to justify her exclusion, that their relationship was considered genuine and that there was nowhere else they could enjoy their family life.

The Tribunal recommended that the Secretary of State give urgent attention to amending the Immigration Rules to extend paragraph 281 or 194¹¹ to include the spouses of refugees with limited leave to remain. Finally, the Tribunal noted that although an Article 8 ECHR assessment is always an individual case by case examination, “it is most unlikely that the Secretary of State or an Entry Clearance Officer will be able to establish that it is proportionate to exclude from the United Kingdom the post-flight spouse of a refugee where the applicant meets all the requirements of paragraph 281 save that relating to settlement”.

¹⁰ <http://www.bailii.org/ew/cases/EWCA/Civ/2009/825.html>.

¹¹ “Spouses or civil partners of persons who have or have had leave to enter or remain under paragraphs 128-193 (but not paragraphs 135I-135K)”, this includes migrants on work permits, international graduate scheme, domestic workers, ministers of religion etc, <http://www.ukba.homeoffice.gov.uk/policyandlaw/immigrationlaw/immigrationrules/part5/>.

Special Article:**Domestic violence and gender-related claims for asylum: recent US jurisprudence**

Matter of R-A- (10 December 2009) and *L.R.* (4 August 2010)
San Francisco Immigration Court

Women's Asylum News would like to thank Lisa Frydman, Managing Attorney at the Center for Gender and Refugee Studies, Hastings College of the Law for writing this article. This article is a follow-up to another article by Lisa Frydman, entitled "Key cases relating to women asylum seekers in the United States", Women's Asylum News, Issue 86, September 2009, http://www.asylumaid.org.uk/data/files/publications/111/WAN_Issue_86_final_pdf1.pdf.

The United States recently granted asylum to two women who were subjected to years of brutal domestic violence in countries where their pleas for help were ignored by both the police and the judiciary. One is a Guatemalan woman named Rody Alvarado whose well-known case (*Matter of R-A*) dragged on for fourteen years and was at the centre of the struggle for recognition that women fleeing domestic violence and other human rights violations are entitled to asylum. The other is a Mexican woman known as "Ms. L.R.," whose case came into the spotlight after officials in the Obama Administration filed a brief taking the position that Ms. L.R. - and other women who have suffered domestic violence - may qualify for refugee protection. The victories in *Matter of R-A-* and *L.R.* are incredibly significant, both for the women in those cases and for their broader implications for domestic violence and gender-based claims in the United States and internationally.

Background on the cases¹²***Matter of R-A-***

Rody Alvarado suffered a decade of vicious beatings at the hands of her husband, a former member of the Guatemalan military. When her pleas for protection to the Guatemalan police and courts went unanswered, Ms. Alvarado was forced to flee for her life, leaving her children behind.

In 1996, an immigration judge granted Ms. Alvarado asylum on the basis of membership in a particular social group. However, in 1999, the Board of Immigration Appeals (BIA)¹³ reversed the immigration judge's decision. The BIA's decision, which ruled - in part - that Ms. Alvarado was not a member of a particular social group and was not persecuted "on account of" her group membership, outraged human rights groups. As a result of their sustained advocacy, the decision was vacated in 2001 and was placed on hold for the promulgation of federal regulations,¹⁴ which were intended to provide guidance on social group and nexus determinations, as well as other aspects of asylum. The central question at stake in *Matter of R-A-*, whether women's rights are human rights deserving of refugee protection, has been so controversial that three Attorneys General intervened in the case.¹⁵ Ms. Alvarado's case was eventually sent back to the immigration court for submission of additional evidence and argument to establish the cognizability of her social group under current jurisprudence,

¹² For more background information on the *R-A-* and *L.R.* cases, see "Key cases relating to women asylum seekers in the United States," Issue 86 WAN September 2009, http://www.asylumaid.org.uk/data/files/publications/111/WAN_Issue_86_final_pdf1.pdf.

¹³ The Board of Immigration Appeals is the highest immigration tribunal in the United States.

¹⁴ The Department of Justice issued proposed asylum regulations in 2000, but these regulations were never finalized.

¹⁵ Attorney General (AG) certification of a decision is an unusual procedure that allows an AG to take jurisdiction over and decide an immigration case.

which requires that social groups have “social visibility” and “particularity,” in addition to being defined by an immutable or fundamental characteristic.¹⁶ Social visibility is a question of whether the proposed social group is recognized or perceived as a group in society or is treated distinctly. Particularity is a question of whether the proposed group is defined clearly enough for an adjudicator to determine who is and who is not a group member.¹⁷

L.R. Case

For over two decades, Ms. L.R. was held in virtual captivity by her abuser, who used physical force, beatings, and death threats to prevent her from leaving. When Ms. L.R. reported the abuse, Mexican police not only failed to protect her, but they informed her common-law husband that she had complained, which resulted in even more gruesome beatings. Ms. L.R. also sought assistance from a Mexican judge who told her he would help her if she had sex with him. Eventually, Ms. L.R. realized that her abuser would not rest until he killed her and that the authorities would not protect her, so she fled to the United States with her children and sought asylum.

Ms. L.R. was denied asylum by an immigration judge who ruled that she was not a member of a particular social group, and that because her persecutor was a violent man in general, he must not have abused her on account of a statutorily protected ground.¹⁸ On appeal before the BIA, the attorney for the Department of Homeland Security (DHS) initially defended the judge’s decision. However, DHS changed its position after President Obama came into office. High level officials in the DHS authored and filed a supplemental brief, arguing that Ms. L.R. could qualify for asylum as a member of either the particular social group of “Mexican women in domestic relationships who are unable to leave,” or “Mexican women who are viewed as property by virtue of their positions within a domestic relationship.”¹⁹

The brief suggests that either of the above social groups could fulfill the current requirements for particular social group membership, depending on the evidence submitted. It explains what the “social visibility” and “particularity” requirements mean and how to establish them, which is especially helpful to advocates in light of the muddled jurisprudence on these requirements. The brief recognizes that evidence of societal acceptance of domestic violence, impunity for domestic violence, and lack of protection for its victims support a finding of nexus, because these factors reinforce an abuser’s belief that domestic abuse of women is acceptable. It also lays out the elements for a successful refugee claim, stating that a woman would have to show that in her country: 1) the society and legal norms tolerate and accept violence against women; 2) the government is unable or unwilling to protect; and 3) there is no place within the home country that the woman could reasonably move to in order to escape her persecutor.²⁰

¹⁶ The immutable or fundamental characteristics standard for social groups was articulated by the BIA in a 1985 decision known as *Matter of Acosta*, which was widely accepted by domestic federal courts and was favorably cited by foreign jurisdictions. See *Matter of Acosta*, 19 I&N Dec. 211 (BIA 1985).

¹⁷ The BIA first discussed “social visibility” and “particularity” as important “factors” to consider in determining social group in a 2006 decision known as *Matter of C-A-*. See *Matter of C-A-*, 23 I. & N. Dec. 951 (BIA 2006). However, in a 2008 decision known as *Matter of S-E-G-*, the BIA converted social visibility and particularity into “requirements,” which are necessary to establish social group membership. *Matter of S-E-G-*, 24 I. & N. Dec. 579 (BIA 2008).

¹⁸ The Refugee Act of 1980 was enacted in order to bring the U.S. into compliance with its obligations under the 1967 Protocol relating to the Status of Refugees, which the U.S. ratified in 1968. The Act adopted and expanded upon the Protocol’s definition of a refugee. It recognizes the same grounds for protection as the 1951 Convention – race, religion, nationality, membership in a particular social group, and political opinion.

¹⁹ The brief recognizes in a footnote that a particular social group defined by family membership may be appropriate in some domestic violence cases.

²⁰ The brief is available at: <http://cgrs.uchastings.edu/pdfs/Redacted%20DHS%20brief%20on%20PSG.pdf>.

Establishing Eligibility for Asylum in *Matter of R-A-* and L.R.

Ms. Alvarado and Ms. L.R. were both represented by the Center for Gender & Refugee Studies (CGRS), with CGRS's director, Karen Musalo, playing a lead role.²¹ On remand before the Immigration Court, CGRS submitted extensive country conditions evidence - including affidavits by country conditions experts - documenting the exceedingly high rates of impunity for violence against women in Guatemala and Mexico, the culture of *machismo*, and widespread societal tolerance for domestic violence and discrimination against women in both countries.

CGRS's legal arguments in the cases followed the framework set out in DHS's brief in L.R. CGRS argued that Ms. Alvarado belonged to a particular social group of "married Guatemalan women who are unable to leave the relationship" and that Ms. L.R. was a member of the particular social group of "Mexican women in domestic relationships who are unable to leave," and that both women were targeted on account of their group membership. The extensive country conditions evidence supported the arguments in both cases.

The DHS attorney in Ms. Alvarado's case agreed with CGRS's position and filed a response in October 2009, taking the position that Ms. Alvarado was eligible for asylum and should be granted asylum in the exercise of discretion. On December 10, 2009, the immigration judge issued a summary decision granting Ms. Alvarado asylum. The decision simply stated, "Inasmuch as there is no binding authority on the legal issues raised in this case, I conclude that I can conscientiously accept what is essentially the agreement of the parties [to grant asylum]."

After reviewing the country conditions evidence and legal arguments submitted by CGRS in Ms. L.R.'s case, DHS submitted a legal filing stating that Ms. L.R. was eligible for asylum and merited it in the exercise of discretion. On August 4, 2010, a San Francisco immigration judge granted Ms. L.R. asylum in a summary order which simply states that asylum is granted, with a notation that it was a result of "stipulation of the parties."

Domestic significance of the Decisions

The cases of Rody Alvarado and Ms. L.R. were closely followed by the media, and were extensively reported upon. Thus, as noted below, even though neither decision constitutes binding legal precedent, they are seen as being tremendously influential because all parties looked to them for an indication of the current Administration's position on these contested issues. The DHS brief in L.R. and the subsequent grants of asylum to Ms. Alvarado and Ms. L.R. send a clear signal that domestic violence asylum cases that make a sufficient evidentiary showing should be granted. The DHS brief is also relevant to broader gender-based refugee claims because it accepts that cognizable social groups can be defined by gender, and recognizes that gender and status in a relationship or in society may motivate persecution of women by non-state actors. However, the brief is not legally binding on judges,²² and despite the fact that it was issued by the DHS's headquarters, attorneys for the DHS sometimes refuse to acknowledge its existence, and other times take positions that are inconsistent with it. The *R-A-* and L.R. decisions are also not binding on adjudicators because they were issued at the Immigration Court level.²³ Consequently, immigration judge decisions in domestic violence and gender-based asylum cases continue to lack uniformity and consistency.

The developments in *R-A-* and L.R. have provided immigration judges who are inclined to grant such cases with additional tools to do so. However, because the brief and decisions are merely persuasive

²¹ The Center for Gender & Refugee Studies is recognized nationally and internationally as a leading expert in gender-based refugee claims in particular, and refugee law in general.

²² The Immigration Court is not part of the DHS and thus is not bound by the DHS's position. However, the Asylum Office –which is part of the DHS and hears affirmative asylum applications in the first instance – is bound by the L.R. brief because it represents the official position of the agency.

²³ Decisions by immigration judges in the United States are unpublished and are not binding on other adjudicators.

and not binding authority, judges who are inclined to deny such cases can continue to hide behind the lack of official guidance on domestic violence asylum claims. Therefore, while the grants of asylum to Ms. Alvarado and Ms. L.R. mark considerable progress, guidance in the form of regulations or legislation on particular social group and nexus in the United States is sorely needed to ensure refugee protection to other women like them.

International significance

The DHS brief in L.R. and the decisions in *Matter of R-A-* and L.R. should influence the development of gender refugee jurisprudence in jurisdictions that look to the United States for guidance in gender-related claims for asylum. In addition, the country conditions documentation submitted by CGRS in both cases should be helpful to practitioners in other countries working on Guatemalan and Mexican domestic violence cases, and they provide excellent models of the type of evidence necessary to support gender-based asylum claims.²⁴

Lisa Frydman
Managing Attorney
Center for Gender and Refugee Studies
Hastings College of the Law

National News

The UK is “opting-out” from the draft EU Trafficking Directive

The EU draft Trafficking Directive on preventing and combating trafficking of human beings, and protecting victims,²⁵ aims to co-ordinate European efforts to combat the practice and introduces a common definition of trafficking in order to facilitate the conviction of traffickers across the European Union. The Directive will be subject to qualified majority voting where each EU member state has a specific number of votes according to the size of its population. The UK is not allowed to veto the proposed Directive but it has chosen to “opt-out”. The charity Anti-Slavery International said that by so doing “the government is failing in its efforts to combat this transnational crime”. A Home Office spokesman stated that “by not opting in now but reviewing our position when the directive is agreed, we can choose to benefit from being part of a directive that is helpful but avoid being bound by measures that are against our interests.” Concerns about the UK’s decision not to be bound by the Directive are also raised because of the reduced conviction rates of traffickers.

To read full articles see:

<http://www.guardian.co.uk/world/2010/aug/30/coalition-opts-out-sex-trafficking>,
<http://news.sky.com/skynews/Home/Politics/Human-Trafficking-Government-Opts-Out-Of-EU-Directive-To-Clamp-Down-On-Sex-Slave-Trade/Article/201008415709840?f=rss> and
<http://www.homeoffice.gov.uk/media-centre/news/trafficking-directive>.

For more information about the draft Directive see:

http://www.europarl.europa.eu/news/expert/infopress_page/019-80646-242-08-36-902-20100830IPR80645-30-08-2010-2010-false/default_en.htm.

²⁴ To request copies of materials from the *R-A-* or L.R. cases, please contact CGRS at:

<http://cgrs.uchastings.edu/>.

²⁵ <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//NONSGML+COMPARL+PE-445.701+01+DOC+PDF+V0//EN&language=EN>.

International News

Bangladesh: Killings of women on religious grounds

Fatwas, Islamic religious rulings, handed down by elites in Bangladesh's rural villages have a disproportionate impact on women. Many religious rulings impose beatings and canings of women leading many to commit suicide to protect their family's honour. Bangladesh's highest court made all punishments handed down in fatwas unlawful but a weak judicial system and entrenched cultural beliefs mean the practice is still ongoing.

To read full article see:

<http://www.alertnet.org/thenews/newsdesk/IRIN/ea668b0da458c7c76711e03748de0a4a.htm>.

Indonesia: FGM continues despite prohibition

Female Genital Mutilation (FGM) was outlawed in Indonesia four years ago. However, experts have said that religious leaders' support for the practice is stronger than ever, in particular in rural communities. The sexual, physiological and physical problems associated with FGM have been widely documented and despite health officials being banned from the practice in 2006, the practice continues, say researchers. The ban was opposed by the Indonesian Ulema Council, the highest Islamic advisory body in Indonesia. Research demonstrated that the practice continues in hospitals and health centres although many women and girls are mutilated in un-sterile environments thereby increasing the risk of infections.

To read the full article see:

<http://www.alertnet.org/thenews/newsdesk/IRIN/eb96b7a12a77556b16833ac9600fabe3.htm>.

Iraq: Vulnerability is a consequence of war for women

The war in Iraq has had many consequences for women. As a consequence of the war and violence that erupted in 2003, more women are unmarried and increasingly at risk of exploitation, both by their families and at work. If women remain unmarried they remain living with their parents or other family and if they are not wealthy, educated or employed, they are often required to work as domestic servants. Women who are working but unmarried may increasingly be at risk without the protection of a husband. Generally, many women rarely leave their homes due to the insecurity and continued sectarian violence. The government proposed to pay a one-off sum of money to men who marry a woman over the age of 35 but the dangers of such a policy have been raised. Concerns have also been raised whether this will address the underlying issues and calls have been made to address security, the revival of the economy and tackling unemployment, ensuring that women are trained vocationally and provided with assistance to start small projects and integrate the economy.

To read full article see:

<http://www.ctpost.com/news/article/Female-single-over-30-Iraqis-count-cost-of-war-646740.php>.

Saudi Arabia: No protection for exploited and abused domestic workers

Many cases of abuse of domestic workers have been reported in Saudi Arabia. Currently, Saudi law excludes 1.5 million domestic workers from employment protection. Domestic workers are subject to a sponsorship system that governs immigration status and employment relations facilitating the systemic abuse of those workers. The sponsorship system requires an employer's written consent for the domestic worker to change employer or obtain an exit visa to leave the country. Although a law has been drafted specifying the rights and duties of domestic workers in 2005, the Council of Ministers has still not passed the legislation. Many domestic workers get their passport confiscated by their Saudi employers and are permanently confined to or locked into the house. There have also been concerns that Saudi authorities are failing to investigate and prosecute Saudi employers for the abuses committed against their domestic workers.

To read full article see:

<http://www.hrw.org/en/news/2010/09/02/saudi-arabia-domestic-worker-brutalized>.

To read Human Rights Watch's 2008 report see:

<http://www.hrw.org/en/reports/2008/07/07/if-i-am-not-human-0>.

Southern Africa: HIV-positive women subjected to forced sterilisation

A rising number of women from South Africa and neighbouring countries have come forward in recent years with accounts of being subjected to forced sterilisation after testing positive for HIV. In Namibia, a trial concerning three women who allege they were sterilised in public health facilities without their consent is being heard in the High Court. The coordinator of HIV/AIDS policy at the Open Society Institute of Southern Africa said that the practice in Namibia "has been fairly widespread and systematic". Similar cases where women living with HIV have had their reproductive rights violated have also been found in Zambia. Currently forced sterilisation takes place although dual-antiretroviral therapy that reduces the risk of passing the virus from mother to child to less than five percent is available. Concerns about being stigmatised by their families because of the sterilisation were expressed by many of the HIV-positive women.

To read full article see: <http://www.plusnews.org/report.aspx?ReportID=90337>.

Timor-Leste: Domestic violence remains a problem despite legislation

Despite a recently adopted piece of legislation criminalising domestic violence, the government of Timor-Leste is facing difficulties in implementing it. A 2009 study backed by the UN Development Fund showed that the widespread rape and sexual abuse of women and girls during the military occupation reinforced men's position of power in society. Although the law was drafted a decade ago, it was only approved in 2009 because the state had no penal code. Those who opposed the legislation said it would break up families. To date no-one has been prosecuted under the new law.

To read full article see: <http://www.irinnews.org/report.aspx?ReportID=90535>.

World: The rise of honour killings

A ten month investigation by The Independent in Jordan, Pakistan, Egypt, Gaza and the West Bank has led to reports of numerous murders of women in the name of honour across religious affiliations. News archives suggest that the number of killings is increasing each year. The article provides the

detail of the brutal murders of women across the world, selected at random, to ensure they are not forgotten. The article shows that honour crimes are under-reported and happen in all regions of the world.

To read full article see:

<http://www.independent.co.uk/opinion/commentators/fisk/robert-fisk-the-crimewave-that-shames-the-world-2072201.html>.

New Publications

Report on the seminar: “A human rights approach to combating human trafficking: challenges and opportunities. Implementing the Recommended Principles and Guidelines on Human Rights and Human Trafficking” (Geneva, 27 and 28 May 2010)

Human Rights Council, A/HRC/15/27, 15 September 2010

The report contains a summary of discussions and recommendations from a seminar held in May 2010 in accordance with Human Rights Council resolution on trafficking in persons, especially women and children. The seminar was divided into three panels:

1. Opportunities and challenges in relation to victim protection and support
2. Opportunities and challenges in relation to criminal justice responses
3. Opportunities and challenges in relation to prevention

One of the conclusions of the seminar was that “a human rights approach to combating human trafficking was one that was normatively based on international human rights standards and operationally directed to promoting and protecting human rights. In a practical sense such an approach worked to end the impunity of perpetrators while also securing justice and rights for those who had been trafficked and preventing future trafficking”.

To read the full report: <http://www.unhcr.org/refworld/docid/4c96f5cc2.html>.

“As if We Weren’t Human” : Discrimination and Violence against Women with Disabilities in Northern Uganda

Human Rights Watch, ISBN: 1-56432-674-8, August 2010

The report by Human Rights Watch shows that women with disabilities in northern Uganda experience ongoing discrimination and sexual and gender-based violence. More than one third of the women interviewed by Human Rights Watch had experienced some form of sexual or physical abuse. They experience abuse from strangers, members of their community or even from their own family. Women with disabilities have been largely excluded from post-conflict reconstruction efforts and face significant barriers in accessing basic services such as health care and justice. They find it difficult to access health centres or police stations to address their needs and respond to attacks.

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

Refugee Women in Britain and France

Manchester: Manchester University Press, 2010.

**by Gill Allwood (Reader in Gender Politics at Nottingham Trent University)
and Khursheed Wadia (Senior Research Fellow at the Centre for Research in Ethnic Relations,
University of Warwick)**

This book is about the lives of refugee women in Britain and France. Who are they? Where do they come from? What happens to them when they arrive, while they wait for a decision on their claim for asylum, and after the decision, whether positive or negative? It shows how laws and processes designed to meet the needs of men fleeing political persecution often fail to protect women from persecution in their home countries and fail to meet their needs during and after the decision-making process. It portrays refugee women as resilient, resourceful and potentially active participants in British and French social, political and cultural life. It exposes the obstacles that make active participation difficult.

UK Training and Events

Asylum Support Appeals Project (ASAP)

ASAP is a legal charity working to reduce destitution of asylum seekers by defending their legal rights to food and shelter. They specialise in asylum support law and provide free second-tier training and advice to community organizations working with asylum seekers. For more details about ASAP please visit the website at www.asaproject.org.

FREE TRAINING IN MANCHESTER

For Women's Groups on 'Support Options for Refused Asylum Seeking Women'

Wednesday the 3rd November 2010, 10.30-4pm

The course will cover:

- Introduction to the asylum support system
- Support for refused asylum seekers (Section 4 and Social Services)
- Criteria for support
- How to apply for support
- Appealing against Refusals or Withdrawals of support

The course is particularly aimed at advice workers who are advising women who have been refused asylum and who need advice on their support options.

****Refreshments available but please bring your own lunch****

Venue:

Manchester Immigration Aid Unit
1 Delaunays Rd
Crumpsell Green, M8 4QS

Transport: From Manchester Piccadilly Station or Piccadilly Gardens you can take the Bury line Tram to Crumpsell Street (10 mins) and the venue is a few mins walk from there.

To attend, please request a form and fax it to ASAP on 020 8686 1899 or post it to ASAP at 18 Barclay Road, Croydon, CRO IJN.

Any queries about the training or if you need more transport details please contact Gerry or Oliver on 020 8686 1888.

ASAP has a limited budget for travel expenses for under-resourced refugee community organisations. If your organisation wants to claim travel expenses, please discuss this with ASAP before booking by calling 020 8686 1888.

Please note training must be booked in advance and is limited to 2 people per organisation.

Equality between women and men: 30 years later is CEDAW working?

Chair: Jane Gordon

Speakers:

Prof. Christine Chinkin, London School of Economics
Helene Reardon-Bond, Government Equalities Office
John Kissane, Ministry of Justice
Anthony Robinson, Equality and Human Rights Commission

Venue: BPP Law School, Red Lion St, Holborn WC1

Date & Time: Tuesday 5th October 2010, 6pm – 8pm

The story of the UN Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) in the United Kingdom (UK) is entwined with the UK's perception of its place in the international legal order. This event will expose the myths and truths about the position of women in the UK and the reality of the UK's commitment to meet its international obligations to protect women's rights.

Renowned international feminist lawyer Prof. Christine Chinkin will open the debate on the UK's record so far, with representatives from Government responding and the Equality and Human Rights Commission discussing its work to make CEDAW's individual complaint mechanism more accessible and relevant to women in the UK.

The event is FREE to encourage/facilitate voluntary sector attendance.

To reserve places, individuals/organisations should contact the HRLA administrator, Aaron Dolan on ADolan@barcouncil.org.uk.

Imkaan is a second tier national charity, specialising in domestic violence - especially Asian Women's Refuges, who support Asian women and children experiencing domestic violence.

Sexual Violence and BAMER Women

5 & 21 October 2010, London

Imkaan is providing this sexual violence training in response to requests of their members, and Imkaan are aware that this training is both in demand and extremely useful for members and external agencies to attend. Imkaan would therefore urge you to book your place as soon as possible.

This December, Imkaan will also deliver 2 accredited training courses for which participants will achieve a Level 2 accreditation with the National Open College Network, which will count towards Continued Professional Development (CPD):

Safeguarding Against Forced Marriage & Honour Based Violence

7 December 2010, London

Risk Assessment & Case Management in Cases of Forced Marriage & Honour Based Violence

16 December 2010, London

Places for all Imkaan training sessions are booked on a first come first served basis - please see details at <http://www.imkaan.org.uk/pub/>.

Human trafficking: Routes to effective enforcement

Freshfields Bruckhaus Deringer LLP and The AIRE Centre

This one-day conference will focus on the effective enforcement of trafficking victims' legal rights and modes of redress.

Experienced legal practitioners will give presentations alongside experts from organisations including the AIRE Centre, New Scotland Yard, EUROJUST, the OSCE, Anti-Slavery International, EUROPOL, and the Crown Prosecution Service.

The conference will include sessions on:

- identifying and working with victims of trafficking;
- the availability of redress and enforcement of civil remedies in the UK and the EU;
- criminal enforcement of anti-trafficking laws; and
- inter-agency coordination within the EU and further afield.

Opening address by Baroness Nicholson of Winterbourne

Friday 5 November 2010

9.30am-5.45pm (registration from 9.00am) – lunch provided

The Conference Centre
Freshfields Bruckhaus Deringer LLP
28 Tudor Street
London EC4Y 0AY
(on the corner of Tudor Street/Bouverie Street)

£50/£25 (NGO delegates) by 1 October 2010 with [completed form](#) and payment. For more details see: <http://www.freshfields.com/go/html/email/dtp/28605dtp/28605dtp.html>.

Enquiries to Alexandra Meagher +44 20 7716 4986

Women's Voices Book Launch organised by the Northern Refugee Centre

11th October 2010

1:00pm – 2:30pm

Quaker Meeting House
10 St James Street, Sheffield, S1 2EW
*Building is wheelchair accessible

We warmly invite you to the 'Off the Shelf' launch of a new book and webpage to celebrate the achievements and experiences of a diverse group of women now living in South Yorkshire.

This work was collected together through writing workshops with the poet River Wolton. Copies of 'Women's Voices' will be on sale during the event.

'Off the Shelf' is Sheffield's annual celebration of writing and reading: www.offtheshelf.org.uk

This event is free but booking is advisable.
Please email pdaniel@northern.ac.uk to book a place.

Charter of rights of women seeking asylum



Endorsements: 211

Google group membership: 121

Home Sweet Home

Women Asylum Seekers Together London (WAST) has a core membership of 25 women who have come to the UK seeking refuge, who support one another and participate in meetings and training.

In partnership with Women for Refugee Women, WAST is currently undertaking a photography project called Home Sweet Home. The project developed through many discussions that the group had about their experiences when they came to seek refuge in the UK. Most of the women have had negative experiences, such as being homeless, while some have had positive experiences of being welcomed by strangers. This project gives refugee women the opportunity to share their experiences, in the hope that others will be able to understand more clearly the situations faced by asylum seekers.

The women have used borrowed cameras to take pictures of what their homes are like in the UK. So far WAST has displayed some of the striking and moving pictures at the Celebrating Sanctuary festival on the South Bank and a Churches Refugee Network event, where the exhibition received very positive comments about the insights it afforded into the lives of women who come to the UK seeking refuge.

WAST's members are enthusiastic about learning a new skill and at the same time they see this project as an opportunity to be heard and understood. They continue to seek opportunities to display their photographs.

For further information see www.refugeewomen.com or contact wrw@womankind.org.uk.

For more information on the Charter and the Every Single Woman campaign, please go to www.asylumaid.org.uk/charter.

If your organisation would like to endorse the charter, please send an email simply stating the name of your organisation to charter@asylumaid.org.uk.

She was detained without charge

Nobody believed her story and no-one spoke up for her

Her family and friends didn't know where she was

Afraid...isolated...

She had no idea what would happen to her next

And that was after she sought asylum in the UK

Our asylum system is now so tough that, all too often, this is how people seeking help are treated. And that can't be right.

We believe the system should be fair and just and that every asylum seeker should have legal help to make their case - only then can we say in good conscience 'let the law take its course'.

Asylum Aid is an independent, national charity that secures protection for people seeking refuge in the UK from persecution in their home countries.

We provide expert legal representation to asylum seekers and campaign for a fair and just asylum system. Founded in 1990, we have since helped 30,000 people to get a fair hearing. In 2009 85% of our clients were granted leave to stay in the UK when decisions were made on their claims for protection.

Please support us

Your donation will safeguard our independence and enable us to stand up for fair asylum rights without fear or favour.

You can make a donation via our website:
www.asylumaid.org.uk/pages/give_now.html
OR send it to us by post with this form:

Name:
Address:
.....
Postcode:
Telephone:
Email:
I want to make a one-off gift of £

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

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

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

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

www.asylumaid.org.uk

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each month/ quarter/ year (please circle) until further notice and debit my bank account:
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Starting on (date):
Signature:
Date:

(FOR OFFICIAL USE) To: The Cooperative Bank, 80 Cornhill, London EC3V 3NJ. Sort code: 08-02-28, Account number: 65281262

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



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Produced by the Women's Project at Asylum Aid
(for more information on this issue, please contact: Christel Querton)

Asylum Aid
Club Union House
253-254 Upper Street
London N1 1RY

Tel: 020 7354 9631
Fax: 020 7354 5620
Email: womenasylumnews@asylumaid.org.uk

www.asylumaid.org.uk

