

women's ASYLUM NEWS

Refugee Women's Resource Project - Asylum Aid - Issue 9 April 2001

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RWRP's Response to Jack Straw's Proposal (Lisbon speech): Refugee Women & Women Asylum Seekers Should Not Be Penalised

In February 2001, Jack Straw gave a speech elaborating on his previous comments (Lisbon, June 2000) about the future of the 1951 UN Geneva Convention relating to the Rights of Refugees. His proposals to provide protection for refugees in their regions of origin and produce an internationally agreed list of 'safe countries' raise grave concern in terms of refugee women's rights and protection. RWRP's view is that refugee women and women asylum seekers should not be penalised by being prevented from seeking asylum in Europe.

In his speech, the Secretary of State made the following points on the issue of protection in regions of origin:

"The great majority of the world's refugees are forced to live in areas neighbouring their homelands. It follows that the main focus of the international community's protection efforts should be on these areas.

Most refugees want nothing more than to return safely to their own country. They have the best chance of doing that if they are able to stay in safety and dignity in a place as close as possible to home, until such time as it is safe to go back.

Action in the regions of origin will reduce the pressure on refugees to travel further afield in

*search of protection."*¹

However, the real picture for most refugees is far from this ideal. In 2000, nearly 30 million people have been forced to flee their homes as a result of war, civil war and political repression. Each year, hundreds of thousands of women and their children are fleeing danger and persecution: It is estimated that they constitute 75 to 80% of the refugee population worldwide and they are one of the most vulnerable groups both socially and economically. The great majority of refugees, including women and children, seek asylum in neighbouring countries in their region of origin in the South. However, whilst they are denied the most basic forms of protection in their own countries, women and their children remain vulnerable to violence and abuses, including sexual assaults, both during their escape and in their country of asylum.

RWRP believes that in their own regions of origin, women who are fleeing gender-based persecution are unlikely to find the type of protection they need. Whilst global needs for humanitarian aid are huge, western governments aid falls far short of meeting them and the protection and safety of women is one of the biggest problems (cf. UNHCR and Oxfam). As a result, whether women are living in camps or resettled elsewhere, they remain vulnerable to domestic violence, sexual violence, rape and even sexual enslavement. Although protection is at the heart of UNHCR's mandate, the international agency remains under-resourced for most of its interventions

¹ An Effective Protection Regime for the Twenty-first Century, Speech to IPPR, 6 February 2001, Home Secretary, Rt Hon Jack Straw MP

and remains unable to guarantee the provision of such protection. Thus, whilst it produced guidelines relating to the safety of refugee women ten years ago, the UNHCR has only been able to implement its principles in a limited number of programmes and only recently, due to a lack of 'interest' from international donors. In the meantime scores of women continue to be victims of sexual aggression or enslavement with no concrete means of protection, even inside UNHCR refugee camps.

In addition, the protection of women against gender-based persecution requires the adoption of a gender-based legal framework with specialist knowledge and adequate judicial institutions which are often lacking in the regions referred to. It is not clear how the regional resettlement proposals will incorporate such a framework and guarantee the rights of women to be free from their persecutors and/or be able to prosecute them according to international standards.

In some cases, women fleeing regimes with oppressive gender policies would be forced to flee to regions in which social norms would be equally repressive (this was the case for instance for Afghan women resettled in camps in Pakistan).

Deprived of community support and any form of income, it is also extremely difficult for women to find economic opportunities in countries with already serious needs in terms of food and other socio-economic activities. Many are living in dire conditions. Shifting further responsibility in terms of accommodating refugees to these poorest countries will only aggravate refugee women's welfare and safety risks.

The consideration of asylum claims and identification of refugees in their own regions also raise the issue of confidentiality, safety and protection for all asylum seekers. Refugees who resettle temporarily in sub-regional contexts might still be the target of political activities, military attacks or revenge killings. Unless meaningful protection forces

are implemented, proposals to resettle refugees in these regions will not address the issues of safety and protection as the experiences in countries such as Rwanda, the Congo or Guinea have demonstrated. In these countries, women and their children represented easy targets in terms of sexual abuses and/or killings.

Besides, the question of funding is another great concern. The proposal to provide protection for refugees in their regions of origin and to increase funding to create better conditions there raises also the issue of how European countries' political priorities are driven by their own individual agenda and interests. For instance, over the last decade, official donors' humanitarian aid levels have declined as a share of the Organisation of Economic Cooperation and Development (OECD) wealth (from 0.33 per cent to 0.22 per cent of their GNP according to OXFAM²), illustrating a declining political and economic interest from the wealthiest western governments. Experience has also shown that western governments' aid is distributed in an unequal way that does not respect people's equal rights to assistance. In 1999, the amount of aid channelled through the European Commission Humanitarian Office (ECHO) to Kosovo and the former Yugoslavia was 4 times than that of the 70 Africa Caribbean and Pacific (ACP) countries. Western aid to support the 1999 UN appeal for Kosovo and the rest of former Yugoslavia was proportionally (per person in need) 13 times higher than in the case of Sierra Leone and almost 26 times higher than the aid given to support the UN programme in the Democratic Republic of Congo (source: Oxfam). Whilst the three regions were hit by devastating civil wars generating millions of refugees, it is clear that European countries concentrated their efforts and interests on those countries closest to their borders. Other areas generating refugee population do not receive any attention at all

² See Oxfam's briefing paper, 'An end to forgotten emergencies?', May 2000. All figures in this paragraph are also drawn from the information provided in the same paper.

and again refugees and asylum seekers can be discriminated against.

In addition, individual countries have so far demonstrated that they have their own political agendas and interests which dictate their individual foreign policies and ultimately their discriminatory position vis-à-vis refugees coming from these countries (see France in Francophone West Africa or the UK in East Africa, for instance). Conflicts are also generated by geopolitical interests from which European countries are not always disengaged, even when not directly involved (cf. Sudan, Liberia, Sierra Leone, Angola, Rwanda) and where the UN has been reluctant to intervene. Yet such interests have created chaos in the life of millions of refugees, the great majority of whom are women and children. Calls for collective action and current international obligations have so far failed to produce the global position underlining Jack Straw's proposal for regional resettlement. This means that provisions for adequate protection in regions of conflict are very unlikely to be met.

For the reasons outlined above, RWRP strongly objects to another element of the proposal, i.e. the use of a EU or internationally agreed list of 'safe countries'. Jack Straw made the following comments on this issue:

"... those who are not in need of protection but who seek to shelter under the umbrella of the Convention... do great damage to asylum systems. They overload the elaborate procedures we have for assessing asylum claims. They cause vast quantities of money to be expended on assessing unfounded claims which would be better spent in the regions of origin. And they can turn the public against genuine refugees.

There are two main ways of deterring misuse of this kind. The first is to process claims quickly. There is a range of measures which states can implement domestically to address this. However, there are collective measures which I believe could help.

For example, an EU- or internationally-agreed list of safe countries or groups from which asylum applications would be ruled inadmissible or considered under a greatly accelerated process. This ought to be on the agenda for the EU and indeed in the United Nations. More generally, the EU's development of common asylum policies should reduce the attractions of so-called "asylum shopping".³

The Home Secretary's proposal overlooks the fact that being persecuted is primarily an individual experience and secondly only a collective one. This is reflected in legal international norms according to which the right to seek and enjoy asylum is an individual right. It is therefore wrong to assume that some countries can be considered safe because this is how they are perceived by European or other international outsiders. Also, given the fact that a country's foreign policy determines its position towards refugees from specific countries, the presumption of safety according to western standards is not acceptable and would put the lives of thousands of refugees at serious risks without serious consideration of their asylum claims (According to this presumption, Spain would be considered as a 'safe country': Not so for Spanish Gypsy women suffering domestic violence, according to a court in America, see caselaw on p.4). Besides, the determination of such a list by state officials raises grave concerns about individuals' rights. Lastly, such a policy would also be contradictory to one of the Home Office's own standards in decision-making according to which each case is considered on its individual merits.

In addition, RWRP believes that the use of a list of safe countries discriminates against women's cases whose experiences as victims of persecution and gender-based persecution are in many countries still not given full consideration. For instance, there are countries where there is little or no state repression, and which would accordingly be regarded as 'safe' but where there are high levels of abuses

³ Home Secretary, Rt Hon Jack Straw MP, op. cit.

against women, such as spousal abuse, repressive social norms or FGM. Very few countries outside Europe and North America can offer the level of protection such women would need in these cases and individual women would therefore effectively be denied the chance to seek asylum from human rights abuses. This is why we think that the definition of a 'refugee' and persecution under the current international protection regime is incomplete and should include all forms of gender-based persecution as well as impose legal obligations on signatory countries to recognise them as a ground for asylum.

RWRP believes that a more effective and efficient approach to the refugee crisis worldwide should include a more comprehensive look at the impact of individual European countries' foreign policies as well as international trade arrangements (including arms trade). Such an approach should include an uncompromising commitment to tackling poverty and promoting respect for other recognised human rights as well as greater commitment to prevent crimes against humanity such as genocide and political killings. Many of the contemporary repressive regimes that are also producers of refugee populations have found and still find support from governments championing economic rights, democracy and human rights for their own citizens whilst overlooking such obligations for others.

Currently, only a tiny proportion of women and children asylum seekers can currently find adequate protection in Europe and other Western countries. RWRP thinks that women asylum seekers and refugees should be allowed to seek such protection in Europe, without restriction, in accordance with their rights set in the Geneva Convention but also in accordance with Europe's moral obligations and duties under international treaties relating to the protection of women's rights.

RWRP believes that it is not right that one of the most vulnerable groups in the world be denied such protection when it needs it most and rejects outright any policy promoting the

creation of a 'fortress Europe'. It is unfortunate that European countries have already taken drastic measures and spent a huge amount of resources in trying to prevent refugees from entering the European Union. As a result, each year tens of thousands of women become vulnerable to smuggling and trafficking organised by gang crimes resulting in many cases in actual enslavement.

Refugee women and women asylum seekers need extra protection not extra discrimination. Europe should not deny them the right to seek such protection when no adequate alternative exists to guarantee their safety and that of their children. Related documents: A shorter version of RWRP's position paper is available on our website at asylumaid.org.uk [then click on Refugee Women's Resource Project]. See also the Refugee Council's postcard campaign below.

Asylum Granted to Spanish Gypsy victim of Domestic Violence

On 10 April 2001, a Spanish Gypsy woman who had fled a 7 year abusive marriage and sought asylum in York, Pennsylvania in the USA, was granted refugee status by a Judge who described her situation in her community as similar to being 'enslaved'. The woman had suffered numerous incidents of physical abuse, including sexual assault, being poured with boiling water and kicked by her husband. She had been 'pulled out of school in the 5th grade' and was married in an arranged marriage at the age of 15. She described her wedding night 'more like a rape' and reported being beaten on a number of occasions since then. She could only work alongside her husband and was not allowed to go out on her own or have friends.

Despite her ordeal, the woman was told by Gypsy elders also known as 'patriarchas' to return to her husband. The Judge heard that the Gypsy Council, the lawmaking body of the community, was all male and did not allow her to speak. If she had, she said that her father would have beaten her. After a suicide attempt, a friend and mentor living in the USA made arrangements for her to get an emergency ticket and a valid Spanish

passport. However the Immigration and Naturalization Service (INS) in Philadelphia airport did not believe that she was Spanish and decided to deport her back to Spain. But she talked of her fear of being killed by her husband and showed some of her scars from the abuses. INS officers sent her to a detention centre believing that she was a 'non-immigrant with immigrant intent' (sic). Her detention aggravated her mental situation— as it reminded her of her experience being locked up in her home—and she was diagnosed with a severe case of Post-traumatic Stress Disorder. But INS refused to release her and as a result, Judge Van Wyke, sitting in York, Pennsylvania, scheduled the trial at the soonest opportunity.

The woman's legal representatives claimed persecution based on ethnicity, imputed political opinion or social group which they defined as 'Gypsy women' or 'Gypsy women who reject male domination or immediate family'. Whilst the Judge did not clarify which definition of a social group he adopted, he ruled that her treatment was tantamount to slavery and rose to the level of persecution. He also cited section 52 of the UNHCR Handbook according to which '*whether other prejudicial actions or threats would amount to persecution will depend on the circumstances of each case, including the subjective element (...). The subjective character of fear of persecution requires an evaluation of the opinions and feelings of the person concerned*'.

In addition, the evidence provided showed that, as a member of a Gypsy community, the woman could not have sought protection from the Spanish authorities who are said to have a 'hands off' approach to matters they consider internal to the community. Whilst the Gypsy community's legal structure did not provide her with protection, her case would have also been ignored by society at large. Likewise, she would not have been able to blend into mainstream Spanish society and as such would have been easily tracked down by her family. Thus future persecution could not be ruled out. INS has reserved the right to appeal.

UK Event / Campaign / Project
Europe Roma and RWRP are organising a Roma women's event to get women together to discuss their needs, including their rights to social support, health care and education, legal assistance and personal safety. The event will take place on Saturday 12th May at the Chestnut Centre, 180 St Ann's Road, N15, (Tube: Seven sisters) from 11 to 15pm.

The Refugee Council is about to embark on a postcard campaign highlighting the impact of threats to the Refugee Convention such as visa restrictions, fines on carriers and the misrepresentation of refugees in the media. The campaign's aim is to get the government to keep the current terms of the Convention. The first batch of signed pledges will be presented to the Prime Minister in late July (on the 50th anniversary of the Convention). For more on how to help with the distribution of the postcards or how to get a postcard, please contact Imran Hussain on 0207 820 3046 or email imran.hussain@refugeecouncil.org.uk.

Street Cred is a Quaker Social Action project which has been providing a self-employment option for women for 2 years, by offering business support and small loans. The project is based on a group-lending scheme with small loans being made for start-ups to women with a specific skill who want to enter self-employment but cannot get money from elsewhere. Street Cred works in Tower Hamlets, Newham, Hackney and Islington and workers can speak Bengali and Somali. For more information, contact the project on 0207 729 9267 (also fax) or email streetcred@dial.pipex.com. Postal address: The Parlour, 45-47 Blythe Street, London E2 6LN

International News: Zambia gets tougher on refugees. In order to get a self-employment permit (the usual way refugees try to rebuild their lives in Zambia), refugees are now requested to show at least \$25,000 in assets, more than 60 times the country's per-capita income per year. JRS reports that 'the measure will particularly affect single women-headed families (More on www.JesRef.org/).

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Produced by RWRP (for more details on information in this issue, contact Sophia Ceneda)
Asylum Aid
28 Commercial Street
London E1 6LS
Tel: 020 7377 5123 Fax: 020 7247 7789
Email: info@asylumaid.org.uk
Website: www.asylumaid.org.uk



The RWRP is funded by the National Lottery Charities Board, the Joseph Rowntree Charitable Trust, Oxfam, Womankind Worldwide, Servite Sisters Charitable Trust Fund, Avenue Trust and Law Society Trustees. The Project is cofinanced by the European Commission Directorate General Justice and Home Affairs. Any views expressed in this publication are those of the authors: the European Commission is not liable for any use that may be made of the information herein. Any legal information in this bulletin is intended as a general guide only, and should not be used as a substitute for legal advice. Any contributions from, or references to, external sources, agencies or individuals do not necessarily reflect the views of Asylum Aid nor receive our endorsement.

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