

women's asylum news

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Issue number 82

April 2009

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Please forward any information that you would like to include in the next edition of WAN to Claireb@asylumaid.org.uk by the 6th May 2009.

The Trafficking Convention – Meaningful Protection or Rhetoric?

This month's leading article is written by Raggi Kotak, Co-ordinator of the Anti Trafficking Legal Project (ATLeP). Raggi is a practising barrister specialising in women's asylum and immigration claims, including those that have been trafficked.

The Council of Europe Convention on Action against Trafficking in Human Beings (the Convention) came into force in the UK on the 1st April 2009, aiming to prevent and combat trafficking in human beings; identify and protect victims of trafficking and safeguard their rights; and promote international co-operation against trafficking.

The Convention applies to all victims of trafficking (women, men and children) and to all forms of exploitation, including trafficking for sexual and/or labour exploitation. It also covers both internal and cross-national trafficking, that is, people who have been trafficked within their home country or across international borders.

However, The Anti Trafficking Legal Project (ATLeP) is concerned that the manner in which the Convention is to be implemented by the UK Government will lead to a serious failure in the provision of some protection measures. These concerns, which relate to implementation of the main provisions of the Convention, are discussed below.

The Main Provisions

The three provisions set to provide the greatest protection for victims are:

- Article 10 – Identification of Victims
- Article 13 – Recovery and Reflection Period
- Article 14 - Residence Permit

Article 10

Provides that each party to the Convention must ensure that their 'competent authorities' have trained individuals to identify victims of trafficking. If the competent authority has reasonable grounds to believe that a person is a victim of trafficking, that person should not be removed from the country until the identification process is complete.

The UK Government has named the 'competent authority' as the designated staff within the UK Border Agency (UKBA) where there are immigration and asylum issues and the UK Human Trafficking Centre (UKHTC – a UK multi agency centre led by the Police) if no such issues are present. In addition, a National Referral Mechanism has been established to provide a framework for identification. Professionals will be required to refer individuals who they believe may be victims of human trafficking to the designated competent authority, who will then make an assessment on whether that individual is a 'genuine' victim.

It is believed that in designating the UKBA and the UKHTC as the only competent authorities, the UK Government has failed to recognise that the term is widely used in both international law and in other parts of UK law to describe the State. Thus the Convention envisages that *all* organs of the State will incorporate the protection of trafficking victims into their duties and responsibilities.

The difficulties created by the UK Government's failure to recognise this can be clearly seen in cases involving children. Under UK law, child protection teams in Social Services Departments have responsibility for the identification and protection of children at risk of trafficking. Under the National Referral Mechanism, however, these teams will be obliged to refer such cases to the UKHTC (who will forward the case to the UKBA caseworkers if there are asylum/immigration issues) to determine whether there are reasonable grounds for believing that the child has been trafficked. This will create the situation where child protection specialists holding most information about individual cases will be required to refer on to those with less specialist knowledge and experience.

Regardless of the decision of the 'competent authority', the child protection teams will still retain all their responsibilities toward these children under UK legislation. That is, where the specialist children's worker believes that a child is the victim of trafficking, they must act accordingly whether or not this belief is upheld by the 'competent authority'. That is, a negative decision from the UKBA or UKHTC does not release them from their obligations under UK child protection law. This will create a confusing context within which child protection teams will potentially be providing care to victims of trafficking where the UK government refuses to acknowledge them as such.

Potentially the most serious flaw in the system for the identification of victims of trafficking is the UK Government's failure to establish an appeal system to challenge negative decisions. In addition, there is no provision for vulnerable victims of trafficking to be represented or given access to the records that are used to make decisions regarding their case.

These anomalies have been clearly identified by Anthony Steen MP, Chair of

the All-Party Parliamentary Group on Trafficking in Women and Children, who commented in a recent Parliamentary debate:

"... article 10 [of the Council of Europe Convention] deals with the identification of victims. [It...] suggests that international good practice is that there is no lead department—a single competent authority—and that decision making should be devolved across a range of authorities at a regional and local level, so that it is closest to the location of the victim...Support services could then be agreed, co-ordinated and provided quickly. For children, that would be through local authority children's services ... the Government propose to make the UK Human Trafficking Centre in Sheffield the single competent authority, with decisions made by UK Border Agency staff inside the UK Human Trafficking Centre.. ... decisions will not be transparent.

There is now a groundswell of opinion from nearly every non-governmental agency that that is precisely the wrong way to proceed...There will be no appeals process, so nobody will know what is going on....all local authorities, the police, the UK Border Agency and the UK Human Trafficking Centre should all be competent authorities. ...If the UK Human Trafficking Centre is the sole competent authority, there will also be operational problems...."¹

Article 13

Provides for a 45-day reflection period for those who have been identified as victims of trafficking. The aim of this is to allow for a victim to get the assistance she needs without being put under pressure to make an immigration or asylum claim or co-operate with the Police. However, this reflection period does not fit with the Detained Fast Track system for asylum

claims, where initial decisions are often made within a week of the claim. The UKBA is only prohibited from fast-tracking a claim involving a potential victim of trafficking where evidence is provided from a reputable source such as the Poppy Project, a leading NGO supporting victims of trafficking at the time of the decision to fast track i.e. when an asylum claim is made.

This system appears to be at odds with the possibility of a reflection period within the Convention. Yet we are aware that cases involving victims of trafficking continue to be fast-tracked, without provisions within the system to prevent this.

Article 14

Provides for a one-year renewable residence permit to be granted to a victim of trafficking if the victim co-operates with a police investigation or if their personal circumstances warrant it. It is not yet clear how 'personal circumstances' are to be interpreted. This is expected to run alongside current provisions for asylum or humanitarian protection. The difficulty with this is that if a victim is granted the residence permit but refused asylum or humanitarian protection under the Human Rights Act, they are prevented from appealing against this latter refusal as UK law prohibits the bringing of an appeal if a person is granted leave for a year or less.²

Many victims of trafficking will be entitled to refugee status or humanitarian protection. If granted such status, a victim will be eligible to stay in the UK for an initial period of five years, rather than the one-year granted under the residence permit. With refugee status they will also benefit from a number of other provisions such as family reunion with dependants left at home or a free education.

¹ Hansard HC Report 3 February 2009 Cols 158-159WH

² Section 82 of the Nationality, Immigration & Asylum Act 2002

However, in order to benefit from the possibility of a residence permit, a victim of trafficking may be forced to give up more extensive protection measures until after their residence permit has expired.

For example, 'Christina' is granted a one-year residence permit as a victim of trafficking. Her application for asylum has been refused because it is said that she will receive adequate protection from the State in her home country. Christina is prevented from appealing against the refusal for refugee status as she has been granted a one year residence permit to remain in the UK. She is also prevented from applying for her daughter to join her in the UK. She can only appeal against this refusal at the end of her one-year.

While it is very positive that the Convention has come into force in the UK, the above-mentioned flaws in its implementation mean that many of the provisions will fail to provide the protection that vulnerable victims so urgently need and deserve.

For further information about the issues raised in this article or for information on the work of ATLeP please contact Raggi Kotak: 1 Pump Court, London EC4Y 7AB
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www.1pumpcourt.co.uk

Special thanks to Raggi Kotak for writing this article

RWRP Update

A Positive Partnership

The HIV Immigration Project was a partnership of three organisations, Positively Women, Asylum Aid and the International Community of Women living with HIV/AIDS (ICW). When the Project came to an end in March 2009, the

partnership produced a report to document the continuing needs of women from abroad who are living with HIV in the UK.

Throughout most of the course of the Project the case of N v Secretary of State for the Home Department³ was going through the courts. The case examined the circumstances in which the removal of a person living with HIV could constitute a breach of their human rights because appropriate treatment would not be available or accessible in their country of origin. The numerous court decisions in this case as it went all the way to the European Court of Human Rights resulted in the emergence of a clear protection gap for women living with HIV.

To tackle the protection gap the Project adapted in two ways. ICW was brought into the partnership. They were able to establish the situation in women's countries of origin regarding medical treatment and discrimination. They offered one-to-one sessions with clients to discuss this information and put clients in touch with local sources of support prior to their return.

Meanwhile, Asylum Aid sought to identify alternative ways to obtain protection through legal avenues. In the case of CA v Secretary of State for the Home Department⁴ the Court of Appeal held that removing a mother living with HIV to her country of origin, which would risk her watching her child contract a terminal illness due to having to mix formula milk with unclean water and then die, was capable of constituting the sort of inhuman treatment prohibited by Article 3 of the European Convention on Human Rights (ECHR). This led the way to cases being successfully taken on focusing on women living with HIV who had a child with HIV

³ [2003] EWCA Civ 1369

⁴ [2004] EWCACiv1165

as their return would result in the mother witnessing the child's death.

Towards the close of the Project, new avenues for resolving the immigration status of women living with HIV were identified by Asylum Aid. They included:

1. Women whose children were HIV positive;
2. Women who are HIV positive and where there is no treatment for the woman on return and the HIV negative child could be left orphaned with no one to look after them;
3. Women who were granted Exceptional Leave to Remain (ELR) or Discretionary Leave (DL) or Humanitarian Protection (HP) on the grounds of their health prior to the decision in N particularly if they have been in the UK for some time and have been receiving treatment;
4. Clients from Zimbabwe in particular but possibly other countries who would be discriminated against in accessing treatment because of their actual or imputed political opinion
5. Under Immigration Rule 395C all women living with HIV who do not have leave to enter or remain will be able to make representations citing their compassionate circumstances before they are removed and these will have to be considered before their removal.

Recent developments in caselaw on Article 8 of the ECHR also provide greater protection against removal for women who have established families in the UK. Applications on these lines will depend upon the facts of the particular case. Asylum Aid will continue to monitor ways in which changes in caselaw might benefit women living with HIV.

However, the protection gap still means that the majority of women living with HIV now have no right to be protected from removal from the UK on that basis alone. They will continue to live without formal immigration status in the UK with all the

ensuing difficulties this entails or they may have to return to countries where the provision of life-prolonging treatments are less effective, not available or only available at great cost.

'A positive partnership: The HIV Immigration Project 2003-2009 a joint project by Positively Women, Asylum Aid and International Community of Women living with HIV/AIDS'
Available at: www.asylumaid.org.uk

Significant Legal Case

Homosexuality: Being Discreet HJ Iran and HT Cameroon⁵

The Court of Appeal has recently considered the circumstances in which homosexuals who had been compelled to be discreet in their country of origin ought to be recognised as refugees. Although the case concerned two gay men, one from Cameroon and the other from Iran, the Court's decision will be applied to the claims of lesbians, unless it is overturned. It was accepted that both men formed part of a particular social group for the purposes of the Refugee Convention as "practising homosexuals". Both men had suppressed the expression of their sexual identity in their country of origin before coming to the UK in order to avoid adverse consequences there.

The judgment was given by Lord Justice Pill with the two other members of the Court agreeing with his decision. It focuses upon whether the decisions of the Asylum and Immigration Tribunal in both cases were compatible with an earlier Court of Appeal decision in the case of J⁶.

⁵ HJ Iran and HT Cameroon v Secretary of State for the Home Department [2009] EWCA Civ 172

⁶ J v Secretary of State for the Home Department [2006] EWCA Civ 1238

Confusingly the appellant in J was also the appellant, known as HJ, in this case.

In its earlier judgment, the Court of Appeal had been persuaded by a decision of the High Court of Australia. The Australian decision had taken a broad view of gay sexual identity. The judgment did not confuse or conflate sexual behaviour with sexual identity, but saw it as one of the constituent parts of such an identity. With regard to discretion, it stated that:

*"Persecution covers many forms of harm...Whatever form the harm takes, it will constitute persecution only if, by reason of its intensity or duration, the person persecuted cannot reasonably be expected to tolerate it. But persecution does not cease to be persecution for the purpose of the Convention because those persecuted can eliminate the harm by taking avoiding action. ... The Convention would give no protection from persecution for reasons of religion or political opinion if it was a condition of protection that the person affected must take steps – reasonable or otherwise – to avoid offending the wishes of the persecutors"*⁷.

In the Australian High Court's view it was a "fallacy" to assume that "the conduct of the applicant is uninfluenced by the conduct of the persecutor".

In J the Court of Appeal concluded that the Asylum and Immigration Tribunal should have asked itself why an appellant had "opted for 'discretion'" before leaving the country of origin, and whether such behaviour was something that "the appellant can reasonably be expected to tolerate", not just with regard to sexual behaviour, but "in relation to 'matters following from, and relevant to, sexual identity' in the wider sense recognised by

the High Court of Australia". It also noted that it was relevant to consider that the appellant may have to "abandon part of his sexual identity... in the circumstances where failure to do that exposes him to...extreme danger".

Both appellants' argued that the Asylum and Immigration Tribunal's decision in their cases were incompatible with the Court of Appeal's decision in J. However the Court of Appeal dismissed both appeals on the basis that the Tribunal had understood and applied the test correctly. In HJ's case, "[t]heir conclusion that HJ could reasonably be expected to tolerate conditions in Iran was firmly based on the evidence in the case considered in the context of the in-country evidence"⁸. With regard to HT, no evidence was before the Tribunal to show that he could not reasonably be expected to tolerate a life of discretion. In coming to this conclusion the Court of Appeal noted that:

*"Both in Muslim Iran and Roman Catholic Cameroon, strong views are genuinely held about homosexual practices. In considering what is tolerable in a particular society, the [Tribunal] is in my view entitled to have regard to the beliefs held there. A judgment as to what is reasonably tolerable is made in the context of the particular society."*⁹

It continued later to hold that:

"...a degree of discretion can be required in all sexual relationships, heterosexual as well as homosexual...Having said what I have, I recognise of course, that there are limits, if a contracting state is to fulfil its obligation to uphold fundamental human rights, to what can be tolerated, when considering an asylum application, by way of

⁷ Ibid § 40

⁸ HJ (Iran) §31

⁹ Ibid. §32

*restrictions in the receiving state. Whether a requirement to respect social standards has the effect of violating a fundamental human right is a matter of judgment for the Tribunal.*¹⁰

WAN understands that the applicants representatives will be seeking to appeal the decision of the Court of Appeal to the House of Lords.

Sector Update

Violence against women strategy

The Home Office is consulting on an integrated strategy to end violence against women and girls.

This consultation is intended to raise awareness, and to generate debate on what more could be done to end violence against women and overcome its far-reaching impact. The consultation paper sets out:

- a model for addressing the issue across government, focusing attention on prevention, provision and protection
- the key themes for government action, to be used to drive public debate and discussion on what more could be done.

The consultation paper is available at: <http://www.homeoffice.gov.uk/documents/cons-2009-vaw/vaw-consultation.pdf?view=Binary>

Asylum Aid is very concerned that the consultation does not mention any of the issues that affect women asylum seekers. This consultation is a major opportunity to persuade the Home Office that a cross-governmental strategy must cover these

issues. Asylum Aid's draft response is available at http://groups.google.co.uk/group/womens_asylum_charter?hl=en-GB (please join the Charter Google group to see this)

To respond to the Home Office consultation

Email: vawconsultation@homeoffice.gsi.gov.uk - include the words 'consultation response' in the subject

Write to: Violence Against Women Team, Violent Crime Unit, 4th Floor, Peel Building, 2 Marsham Street, London SW1P 4DF

You can also complete an online survey at <http://www.homeoffice.gov.uk/keepwomensafe/survey/>

Or attend one of the Home Office events <http://www.homeoffice.gov.uk/documents/violence-against-women-bua>

The deadline for this consultation is **Friday 29th May 2009**

Funding awarded to disseminate research on women asylum seekers

The Centre for the Study of Emotion and Law – CSEL - is a small research centre, conducting, supervising and disseminating high quality research studies into the interface of emotion and law, specifically relating to the asylum process in the UK. For example, discrepancies between accounts of persecution are often seen as an indication of lying, but CSEL has shown that when people are traumatised by their experiences, they often have difficulty giving a consistent account.

CSEL has received funding from Comic Relief for a 3 year project to ensure that these research findings reach some of the most vulnerable people in our society – women seeking asylum.

CSEL conduct and supervise research, publishing in high impact, peer-reviewed

¹⁰ Ibid. §36

journals, and conduct training and presentations in order to disseminate their findings to ensure that they are applied to decision making in the asylum process including: judges, decision makers, lawyers and representatives, advisors, healthcare professionals and support workers. CSEL have been getting informal feedback that their research is making a difference to women's asylum claims. For example women who have been raped often do not disclose this at their first asylum interview. CSEL have published research examining in some detail why this is the case and this research, can be used to support claims.

A paper published in 2007 in the British Journal of Psychiatry¹¹, documented the experience of asylum seekers in their interviews with the Home Office. Those who had experienced sexual violence had significantly more Post Traumatic Stress Disorders, stronger feelings of shame, more dissociation (losing touch with a sense of reality in the interview) and greater difficulty in disclosing what had happened to them. Women with histories of sexual violence are often refused asylum by the Home Office, and subsequent appeal Judges may not be aware that the interview that led to that decision may have been inadequate. It is crucial that women with similar experiences seeking asylum be aware of this research, and be able to present it as part of their case. By publishing in prestigious scientific journals this evidence is given the credibility it needs in the Courts.

As legal representation gets more difficult to fund, an increasing amount of this work is being done in the voluntary sector. There is a need to ensure that high quality empirical research on the psychological

aspects of women's asylum claims is disseminated to those working with them.

CSEL is currently recruiting for someone to lead this dissemination project.

The project will form part the expansion of CSEL's work and will build networks with other organisations in the sector. CSEL are building a body of knowledge regarding psychological aspects of asylum decision making in the UK and are keen to work with other agencies in the sector to ensure CSEL are addressing the key issues in asylum claims, and that research is being disseminated to those who can use it.

For more information about CSEL, see www.csel.org.uk

For more information about the Research Findings for Women project, email Jane Herlihy j.herlihy@csel.org.uk.

UK Events and Conferences

'Eliminating violence against women – rhetoric or reality?'

Rights of Women

21st April, London NCVO 10am–1pm

23rd April, Cardiff City Hall 1pm–4.30pm

5th May, Manchester Town Hall 1pm–4.30pm

This free seminar is a unique opportunity to consider and assess the Government's initiatives on tackling violence against women and the implementation of these initiatives across England and Wales.

Participants are encouraged to share your organisation's experience and good practice in this important debate.

The seminar will specifically look at:

- What is Violence against Women (VAW)?

¹¹ See Bogner, D., Herlihy, J. & Brewin, C. (2007). Impact of sexual violence on disclosure during Home Office interviews. *British Journal of Psychiatry*, 191, 75-81.

- What do international human rights frameworks say about VAW?
- What is our Government doing to address VAW?

The main audience for these seminars are: Women's organisations, voluntary organisations, statutory sector agencies, the police, social, health and education professionals, legal advisers, academics judges, ISVAs, IDVAs, and multi-agency partnerships working on these issues

All above seminars are open to a mixed audience.

For further information please contact: shaki@row.org.uk or Tel: 0207 251 6575

'Meeting the needs of trafficked women'

Rights of Women in partnership with the Poppy Project
13th May 2009
Kings Cross, London

This training explores how to identify and support women who have been trafficked into the UK for sexual exploitation. The training coincides with the ratification of the Council of Europe's Convention on Action against Trafficking in Human Beings 2005. This course will provide an essential grounding in the relevant criminal and immigration law.

Alongside full training notes and materials you copies of *'From Report to Court: a handbook for adult survivors of sexual violence'* and *'Pathways to Justice: BMER women violence and the law'* will be given to each participant.

This training is for women only.
For further information please telephone: 0207 251 6575
Or email: training@row.org.uk

'OVER & OUT'

Launch event for research report
12 May 2009
House of Lords, London

Refugee Support will launch their new research report *'Over & Out'*, which explores the housing and accommodation related issues facing lesbian, gay, bisexual and transgender asylum seekers living in and returning back to London.

For further information, or for an invitation, please contact Sarah Walker: sarah.walker@mst-online.org.uk

Further information about Refugee Support's research projects can be found at:

<http://www.refugeesupport.org.uk/research/handconsultancy.html>

International Conferences

Sexual Violence Research Initiative Forum 2009: *'Coordinated evidence-based responses to end sexual violence'*

6th – 9th July 2009
Johannesburg, South Africa

The Sexual Violence Research Initiative (SRVI) is hosting the SVRI Forum 2009. The conference aims to promote research on sexual violence, highlighting innovation and encouraging sharing and networking in the area of sexual violence. This global event will bring together over 200 participants working on sexual violence as researchers, gender activists, funders, policy makers, service providers, survivors and others. Simultaneous translation in French and Spanish will be available.

The three day event includes:

- Keynote and breakout sessions on:

Sexual violence and HIV; sexual violence and mental health; sexual violence and conflict and emergency settings; sexual violence and prevention; and health sector responses to sexual violence

- An analysis of current advances in health sector responses to sexual violence
- Networking opportunities to facilitate collaboration and partnerships
- A mentoring program to provide opportunities for small group and one-on-one consultations
- Skills building workshops on: research; ethics and advocacy

For full details of the conference and the work of the Sexual Violence Research Initiative see: <http://www.svri.org/>

For further information on the SVRI Forum, please contact Lizle Loots, SVRI Researcher email: lloots@mrc.ac.za or email svri@mrc.ac.za .

UK News

Entitlement to NHS care for refused asylum seekers

In March 2009, a Court of Appeal decision changed the entitlement to NHS health care for refused asylum seekers. Refused asylum seekers are no longer entitled to free NHS secondary care (hospital care). There are, however, circumstances in which refused asylum seekers can access secondary care without payment. These are detailed in Department of Health advice issued in April 2009.

If a clinician considers treatment to be immediately necessary or urgent, then the treatment should be provided irrespective of the refused asylum seeker's ability to pay. Treatment which is considered to be non-urgent can be denied if the refused

asylum seeker is unable to pay in advance. Non-urgent treatment is routine elective treatment which can wait until the patient returns to their home country.

Decisions about the urgency of the treatment must be made by a clinician. It is not appropriate for this decision to be made by an Overseas Visitor Manager. In determining the urgency of the treatment, the clinician must take into account when the patient is likely to return to their home country. If the patient is unlikely to return to their home country within a medically acceptable time, their treatment may be considered urgent.

Importantly, all maternity care is always considered to be immediately necessary treatment and should never be withheld for any reason. Some secondary care is available free of charge to all: emergency treatment in Accident and Emergency; treatment for some contagious diseases (including testing but not treatment for HIV/AIDS), and compulsory mental health treatment.

This judgement was very disappointing to campaigners who had hoped to ensure refused asylum seekers had access to free NHS secondary care. The new rules offer greatly restricted access to secondary care to those who cannot pay. The increased complexity of the rules will add to the existing confusion about entitlement. There are likely to be refused asylum seekers who are wrongly denied care and others who are deterred from seeking care.

Maternity Action has produced an information sheet on the implications of the court case for refused asylum seekers who are pregnant (available at www.maternityaction.org.uk). Medact has produced an information sheet for all refused asylum seekers (available at www.medact.org). The text of the Department of Health advice is included in these information sheets.

International News

Kenya: Disabled women vulnerable to sexual violence

A study by The Federation of Women Lawyers in Kenya (FIDA-K) reveals disabled women are three times more likely to experience physical and sexual abuse than non disabled women. Patricia Nyaundi, Fida-K's Executive Director believes disabled women are deliberately targeted because of cultural myths and beliefs which include the view that having sex with a disabled woman will cure HIV/AIDS.

In this article, disabled women recount their experiences including being inappropriately touched, mugged at knifepoint and fearing rape. One woman states: *"The real story is yet to be told. Rape and sexual abuse for women like me is an everyday occurrence. When we are raped, we don't know where to go or who to report to. There is always the fear that something worse could happen to you (by reporting)."* Although an increasing amount of information illustrates the prevalence and crimes committed against people with disabilities, such violence is rarely acknowledged. Women with disability face social ostracism and everyday discrimination and their low social status 'results in increase exposure to violence and fewer opportunities for recourse'. In instances where violence against a disabled woman is identified her access to services is often restricted both in terms of physical inaccessibility and a lack of training and awareness by staff. Women with sensory impairments often lack access to communication and necessary information.

Ms Nyaundi argues how women with disabilities have their rights violated daily due to a lack of clear legislation and

policies. Kenya does have a Sexual Offences Act however the needs of women with disabilities were never clarified within the legislation. Nyaundi adds: *"unless the issue of disability is enshrined within the Constitution, issues like the sexual abuse of women with disabilities in Kenya will not get the serious attention they deserve."* Domestic and international laws on people with disabilities have been ratified in Kenya but the 'implementation is lacking, particularly with regards to legal and human rights'. For full article see:

<http://www.awcfs.org/index.php/20090304554/Cultural-Stigma-and-Myth-Disabled-Women-in-Kenya-are-Vulnerable-to-Sexual-Violence.html>

South Africa: Corrective Rape

Increasing numbers of lesbians are believed to have experienced 'corrective rape' in South Africa. UK Channel Four news programme have recorded news footage which is available on-line discussing the prevalence and affects of this crime. The term 'corrective rape' refers to the belief that a lesbian should be raped in order to 'correct' her sexual orientation. Many lesbians and their families in South Africa are deliberately targeted. Many women suffer long-term psychological and physical affects, experience stigma and rejection and some women have been brutally murdered after their attacks.

The news footage interviews the family of a woman who was targeted, gang raped and murdered solely because she was a lesbian. The interview covers the family's frustration that although the men have been arrested in this high profile case and confessed to targeting her because of her sexual orientation, the judge dismissed their motives as 'irrelevant'. The news footage also interviews a lesbian whose youngest daughter was raped as a punishment for her mother's sexual orientation. Her daughter later killed herself.

A quarter of all women are believed to be raped in South Africa by the time they are 16. Many lesbians fear they are at an increased risk because of the growing belief that lesbians should be raped. In a country with such a high prevalence of sexual violence more needs to be done to protect women and protect the rights of lesbians. For the on-line news footage see:

<http://www.channel4.com/news/articles/world/africa/corrective+rape+in+south+afri+ca+/3027797>

To download international NGO Action Aid's recent report: '*The rise of Corrective rape in South Africa*' see:

http://www.actionaid.org.uk/doc_lib/correctiveraperep_final.pdf

Nigeria: Same Sex Marriage Prohibition

Amnesty International is urging Nigeria's House of Representatives not to pass the 'Same Gender Marriage (Prohibition) Bill 2008'. If introduced this bill would criminalise marriage between persons of the same sex and witnesses to such a marriage. Amnesty believe this bill would discriminate against same sex couples right to freedom of expression, freedom of family and private life and freedom of association.

Nigeria's criminal and penal code already punishes consensual same sex relations. Chapter 42, section 214 of Nigeria's criminal code states a fourteen year imprisonment sentence is given to people who have a 'carnal knowledge against the order of nature'. In addition, in northern Nigeria Sharia's penal codes punish 'sodomy' and 'adultery' with death by stoning.

Amnesty International stipulates this bill contravenes Nigeria's obligations under Chapter IV, Fundamental Rights of it's own Constitution as well as the Universal

Declaration of Human Rights, The African Charter on Human and Peoples' Rights and International Covenant on Civil and Political Rights (ICCPR). Moreover, Nigeria is a member of the UN Human Rights Council and should promote the protection of all people regardless of their sexual orientation.

In recent years Amnesty International has expressed concerns over the treatment of gay, lesbian, bisexual and transgender people including police harassment, arrests and detention. Amnesty fears this bill will further criminalise an already criminalised and vulnerable group, will incite hatred and violence from homophobic individuals and restrict essential freedoms. For full article see:

<http://www.unhcr.org/refworld/pdfid/49c89bde2.pdf>

Gaza: Violence against women

The United Nations Development Fund for Women (UNIFEM), local Palestinian NGOs and mental health organisations are reporting a rise in domestic violence and sexual assaults in Gaza since 2009. An unpublished UNIFEM survey illustrates a rise in violence against women before and after the 23 day war in January. A public relations coordinator for the 'Gaza Community Mental Health Programme' believes: *"we can attribute this to the fact that most people were exposed to traumatic incidents during the war, and one way people react to stress is to become violent."* One woman recounts how the domestic abuse she suffered during that time was so severe she has since divorced her husband: *"he beat me severely and I was fainting from the stress... he forced me to engage in sexual intercourse against my will."*

Bakr Turkmani, an attorney at the Palestinian Centre for Democracy and Conflict Resolution (PCDCR) states: *"the number of divorce and separation cases has increased significantly since the war,*

and domestic violence played a role in the increase." Similarly, Amal Siam, the Director of The Women's Affairs Centre in Gaza reports that *"many women who never experienced violence at home, were beaten during the war."* In addition, women who lost their husbands during the war are facing legal difficulties as many father-in-laws have taken women's inheritance and try to take custody of the children. UNIFEM are due to publish the findings from their UN inter-agency gender needs assessment in May 2009.

For full article see:

<http://www.irinnews.org/Report.aspx?ReportId=83614>

Turkey: The rise of 'honour suicides'

'Honour' killings in Turkey has reached record high levels according to government statistics. Half of all the murders committed in Turkey are believed to be 'honour' crimes and now the 'honour suicides' have emerged. This growing issue is believed to be linked to Turkey's Penal Code 2005 which introduced a mandatory life sentence for people who commit 'honour' crimes. It is largely believed people are forcing women to kill themselves in order to escape this prison sentence.

This article charts the circumstances of one woman whose father told her to kill herself so he could avoid the life sentence that would be associated with killing her. The woman has spent the last eight months hiding in fear. One of the shelters she has stayed at was raided by armed family members who want her to kill herself.

Chief Prosecutor in Batman, south east Turkey where three quarters of all suicides are women believes: *"Wearing tight clothes or talking to a man who is not a relative is sometimes all it takes to blacken the family name. ... Women who are told to kill themselves are usually given one of three options – a noose, a*

gun or rat poison. They are then locked in a room until the job is done."

Traditionally these types of crimes against women were largely associated with the Kurdish region in Turkey, however information reveals 'honour' crimes and suicides are spreading to all cities and towns across the country. According to the government's report there is one 'honour' killing a week in Istanbul. Ms Yirmibesoglu, Head of Istanbul's department of Human Rights believes the entrenched notion of 'honour' across all levels of society limits any progress. Yirmibesoglu states: *"Honour killings aren't always properly investigated because some police and prosecutors share the same views as the honour killers...For things to change, police, prosecutors and even judges need to be educated on gender equality."*

For full article see:

<http://www.independent.co.uk/news/world/europe/women-told-you-have-dishonoured-your-family-please-kill-yourself-1655373.html>

Democratic Republic of Congo: Attacks on women

Human Rights Watch report at least 90 women and girls have been brutally raped by Rwandan rebel forces, government army soldiers and allies since January 2009 in north and south Kivu, eastern DRC. The Rwandan rebel forces are also implicated in 180 civilian deaths in this time period. Human Rights Watch are calling on the UN Security Council to ensure the Congolese government remove human rights abusers and individuals who attack women and girls from its forces.

In recent weeks, the Rwandan Hutu militia, known as the 'Democratic Forces for the Liberation of Rwanda' (FDLR) have attacked and burned many villages and towns, deliberately killing civilians, raping women and looting family homes. Anneke Van Woudenberg, senior Africa

researcher at Human Rights Watch states: *"The FDLR are deliberately killing and raping Congolese civilians as apparent punishment for the military operations against them.... Both the fighters who commit such horrific acts and the rebel commanders who permit them are responsible for war crimes."* In February 2009 the FDLR are reported to have kidnapped at least a dozen women from Remeka, North Kivu. The women who resisted rape were murdered and the fate of other women is still unknown. Similarly, in March Congolese soldiers are reported to have raped at least 21 women and girls in Masisi, many were brutally gang raped. Van Woudenberg adds: *"The Security Council should seek an immediate answer from the Congolese government on when it will carry out such arrests and what it will do to stop further rape and killing by troops before it gives any support to the military operations"*

For full article see:

<http://www.hrw.org/en/news/2009/04/08/dr-congo-brutal-rapes-rebels-and-army>

New Publications – UK

'Bordering on Concern – Child Trafficking in Wales'

ECPAT UK

This research was commissioned by the Office of the Children's Commissioner Wales and conducted by ECPAT UK. The purpose of the research is to establish a clear evidence base of information on child trafficking in Wales. The report explores the extent of child trafficking within Wales covering children being trafficked into, around and out of Wales. The report discusses different forms of child trafficking including sexual exploitation, forced labour, domestic servitude and begging. The report also explores knowledge of, attitudes to and current

practices associated with child trafficking whilst outlining current legislative frameworks.

The research highlights how many children were criminalised for activities they were forced to undertake by their traffickers. Moreover, examples where procedures were not followed and the necessary intervention was not taken are illustrated. The report concludes how trafficked children are vulnerable as they are treated differently to UK children. A series of recommendations are covered including practical interventions and policy issues.

For full report see:

http://www.ecpat.org.uk/downloads/cc_ecpat_english-web.pdf

New Publications – International

'The Emerging Importance of 'social visibility' in defining a 'Particular Social Group' and its potential impact on asylum claims related to sexual orientation and gender'

Fatma E. Marpouf Yale Law and Policy Review

This paper examines the relevance of 'social visibility' in claims based on 'membership of a particular social group' (PSG) within US asylum claims. The category of PSG has generated a high level of international debate within refugee law. This paper argues how new debates stipulating the introduction of the 'social visibility' test may have a *"profound and negative impact on cases related to sexual orientation and gender"*. The article raises specific concerns regarding how the 'social visibility test' requires members of a 'particular social group' to have a public face.

The paper concludes that *"adjudicators should reject the 'social visibility' approach*

because it destroys Acosta's principled framework, represents an abdication of US obligations under the 1967 Protocol, cannot be applied in a consistent way, and ignores the complex relationship between visibility and power." For full paper see: http://www.yale.edu/ylpr/pdfs/Marouf_27_1.pdf

'Report submitted by the Special Rapporteur on trafficking in persons, especially women and children'

Joy Ngozi Ezeilo
UN Human Rights Council – Tenth Session – A/HRC/10/16

This report covers a global perspective of trafficking and discusses trends, forms, manifestations and challenges from the period of August 2008- March 2009. The report examines the legal and policy frameworks including international human rights instruments, regional legal and policy frameworks and national legal regimes. The report also sets out the vision and agenda of the Special Rapporteur and the methods of working including gathering information and learning and sharing good practice.

The report concludes how the lack of reliable and complete data is problematic when addressing issues around trafficking of persons especially women and children. Recommendations include States providing *"specialised support and assistance regardless of immigration status"* and ensuring *"robust, child-centred provisions exist"*. For full report see:

<http://www2.ohchr.org/english/bodies/hrcouncil/docs/10session/A.HRC.10.16.pdf>

'Shattered Lives – Immediate medical care vital for sexual violence victims'

Medecins Sans Frontieres (MSF)

This report illustrates the high levels of sexual violence women are subjected to in conflict and post conflict situations. Sexual violence continues to be perpetrated in many countries for several reasons. Françoise Duroch, MSF's expert on violence *states: "sexual violence during war can have several objectives... rape can be used as a weapon, meaning it is carried out with martial reasoning and used for political ends. It can be used to reward soldiers, or remunerate them, to motivate the troops. It can also be used as a means of torture, sometimes to humiliate the men of a certain community. Systematic rape can be used to force a population to move. Rape can also be used as a biological weapon to deliberately transmit the Aids Virus. In war, we also find the phenomenon of sexual exploitation, forced prostitution or even sexual slavery."*

This report covers the physical and psychological impact as well as the stigma and rejection faced by women who have experienced sexual violence. Based on MSF's experience working in conflict situations, this report discusses why sexual violence is a 'humanitarian emergency' and what medical care and psycho-social support should be available. The report also recommends what legal, social and economic support is needed and how to learn from MSF's experience in Burundi, Colombia, DRC, Liberia and South Africa. For full research report see: http://www.azg.be/shatteredlives/reports/MSF_Shattered_Lives_ENG_March2009.pdf

women's asylum news

Produced by RWRP (for more information on this issue, please contact: Claire Bennett)
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