

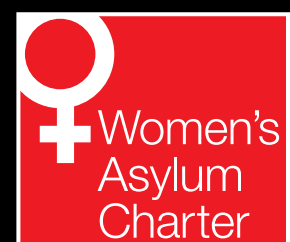
# Every single woman

a comparison of standards for women in the asylum system with standards for women in the criminal justice, prison and maternity systems in the UK

December 2009

# Contents

Executive Summary	1
Introduction	2
1. Policies relating to women asylum seekers	4
2. Women in the criminal justice system	5
a. Policies and procedures for women reporting rape/domestic violence	5
b. Policies in relation to women: courts and tribunals	6
3. Policies relating to detained women	7
4. Benefits during pregnancy	8
Experiences compared	10
Conclusion	12



# Executive summary

This briefing is a contribution to the *Charter of rights of women seeking asylum*. It considers the disparity of treatment of women who are settled in the UK with women who are seeking asylum in the UK. Following the topics in the Charter, this comparison focuses on: the asylum determination system, welfare and accommodation, and detention and removals. In particular it looks at women victims of rape and domestic violence etc, in the criminal justice system compared with women in the asylum determination system, women in prison compared with women in immigration detention and women who are pregnant. In all cases there is a more gender-sensitive system for women settled in the UK than for women asylum seekers.

A culture change in the asylum system is urgently needed to ensure that women asylum seekers receive a comparable standard of treatment to women settled in the UK in similar situations. In particular this means:

- Women asylum seekers who have experienced rape or domestic violence etc, in their country of origin, should receive a comparable standard of treatment throughout the UK asylum system to women victims of rape or domestic violence in the criminal justice system
- Women asylum seekers detained in Immigration Removal Centres should receive, at a minimum, a comparable standard of treatment and facilities to women in prisons in the UK
- Women asylum seekers who are pregnant should receive a comparable standard of ante- and post- natal provision and benefits to women settled in the UK

The briefing concludes that a change of culture designed to produce a genuinely gender sensitive asylum system is urgently needed to ensure that women asylum seekers receive a comparable standard of treatment to women in similar situations who are settled in the UK.

A briefing, this extended version and the film which accompanies it are available at [www.asylumaid.org.uk/charter](http://www.asylumaid.org.uk/charter)

For a printed version of the briefing, contact [charter@asylumaid.org.uk](mailto:charter@asylumaid.org.uk)

# Introduction

Women claim asylum to seek protection from a range of human rights abuses in their home countries.

A woman's claim may be because she was persecuted by her state. For instance she may have been involved in political activities and been detained because of these. In many countries such detention routinely includes being raped by state officials such as prison guards.

Alternatively a woman may have been persecuted by her family or community and the state authorities did not protect her, for example by not having adequate laws or by not enforcing their laws. These forms of persecution tend to be particular, although not exclusive, to women and include domestic violence, rape, sexual violence, forced marriage, "honour" crimes and female genital mutilation.

Although the persecution experienced by women often differs from men's experience, the asylum system tends to interpret it through a framework of male experiences.

The *Charter of rights of women seeking asylum* (the *Charter*) aims to influence the UK Border Agency (UKBA) to create a gender-sensitive culture and remove the discriminatory barriers faced by women. The *Charter* provides a framework of principles to address the treatment of women asylum seekers in a more strategic way alongside suggestions as to how the UKBA could improve its operational practice. It covers all aspects of the end-to-end asylum process: the asylum determination system, accommodation, welfare, detention and removal.

Since June 2008, nearly 200 organisations have endorsed this *Charter*, including Amnesty International UK, Liberty, Oxfam and Rape Crisis.

The past ten years have transformed the way the UK criminal justice system deals with domestic and sexual violence. A number of criminal justice reforms have been introduced, designed to improve the investigation and prosecution of rape and domestic violence cases, to prevent police, prosecutors and judges from using dubious stereotypes relating to a woman's credibility, and to provide increased levels of support to female victims of such crimes. While not offering a panacea, there is little doubt that these reforms have brought some benefits.

However, there is a marked disparity between the experiences of female victims of sexual and domestic violence going through the criminal justice process in the UK and that of women asylum seekers who have experienced the same crimes going through the asylum process. Whilst the purposes of the two processes are not the same – one is to investigate a crime and the other is to determine refugee status – the sensitivities required are similar. To rectify this disparity, the gender sensitive culture developed for women in the criminal justice system needs to be transferred into the asylum system.

The *Charter* states “If a woman suffers rape, domestic violence or “honour” crimes in the UK there are gender-sensitive practices that have been developed within the criminal justice system to respond appropriately. If a woman suffers similar violence in her home country and comes to the UK to seek protection, the immigration system should respond to a similar standard, learning the lessons from the criminal justice system.”

The Corston Report, focussing on women who offend or are at risk of offending, was published in March 2007 after the Home Office commissioned a review of women with particular vulnerabilities in the criminal justice system. Subheaded “The need for a distinct, radically different, visibly-led, strategic proportionate, holistic, woman-centred approach,” it called for an enlightened change in the way women are treated throughout the whole of the criminal justice system. A key recommendation was for the establishment of a strategic top-level commission with a remit of care and support for women who offend and a champion for women to drive this agenda forward. A cross-departmental Criminal Justice Women’s Unit was set up the following year.

Despite the marked progress by the police and prison services in relation to the treatment of women, such needs have been ignored, at best, and discounted, at worst, when it comes to women seeking asylum. A considered, holistic, review of the UKBA’s service in relation to the particular needs of women across the whole of the asylum system (asylum determination, support and detention) has never been undertaken and there is no strategic lead on gender issues.

This briefing is a contribution to the *Charter of rights of women seeking asylum*. It considers the disparity of treatment of women who are settled in the UK with that of women who are seeking asylum in the UK. Following the topics in the Charter (the asylum determination system, welfare and accommodation, and detention and removals), it expands upon the comparison with the criminal justice system mentioned in the *Charter*. As stated, the situation for women who have experienced rape and domestic violence abroad when they go through the asylum determination system is most comparable to women victims of such crimes in the UK when they go through the criminal justice system. The situation for women asylum seekers in immigration detention in the UK can be seen as comparable to that of women in prison. Women settled in the UK who are homeless and pregnant can be compared to women who have been refused asylum and who are homeless and pregnant. These comparisons form the basis of this briefing.

**This can be summarised as follows:**

Women seeking asylum in the UK	Women settled in the UK
Women asylum seekers who have experienced rape, sexual violence, domestic violence and “honour” based violence, etc in their home countries, going through the asylum determination system	Women victims of rape, sexual violence, domestic violence and “honour” based violence, etc in the UK, going through the criminal justice system
Women asylum seekers in immigration detention	Women in prison
Women asylum seekers who have been refused asylum and are pregnant	Women settled in the UK who are pregnant

The comparisons are based on legislation, policies, guidance, protocols and strategies that are currently in place and do not reflect the extent to which these are implemented.

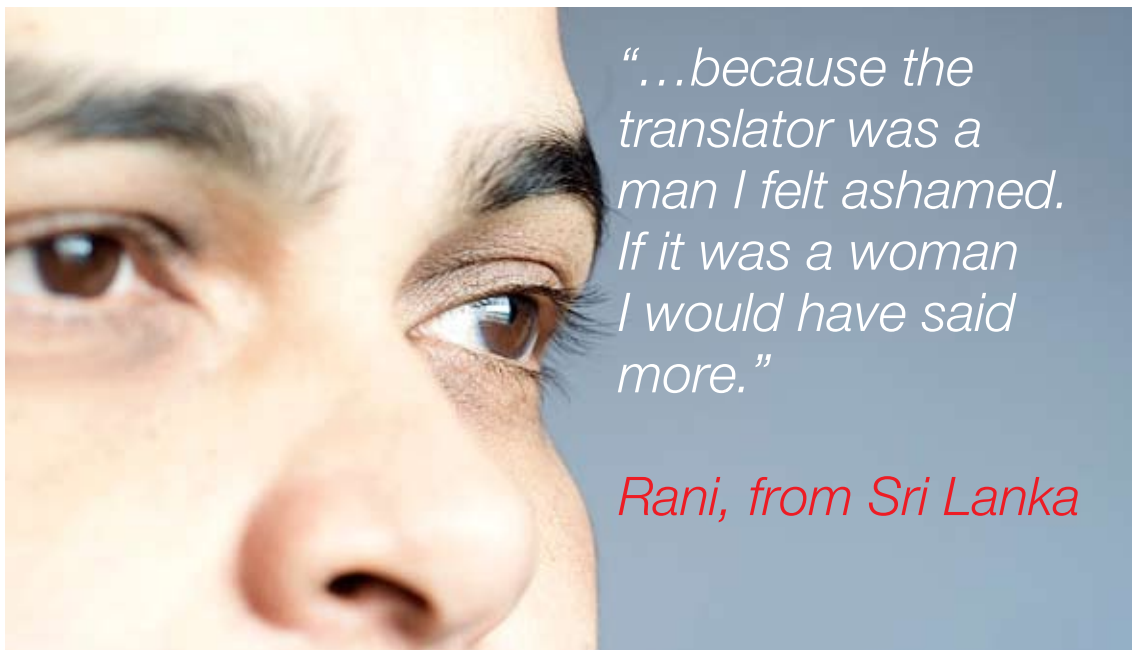
The examples that follow serve to illustrate the inequality of standards of treatment for women who seek protection in the UK from human rights abuses abroad when compared with women settled in the UK who are in similar situations.

## 1. Policies relating to women asylum seekers

UNHCR (the UN Refugee Agency) has “consistently advocated that the refugee definition, if properly interpreted, can encompass women who have been persecuted for gender-related reasons.” Gender guidelines provide a mechanism by which the Refugee Convention can be interpreted in a gender-sensitive way.

The UK is one of the few countries in Europe to have such gender guidelines. Entitled *Gender Issues in the Asylum Claim*, this Asylum Instruction was incorporated by the Home Office in March 2004 and revised in October 2006. It acknowledges that the Refugee Convention has traditionally been interpreted through a framework of male experiences. It includes the range of harm that a woman might experience, the need to consider relevant country information and the importance of gender-sensitive procedures such as providing female interviewers and interpreters. In May 2009, UKBA initiated a consultation on further revision of the gender Asylum Instruction.

The UK Border Agency has two policies specifically related to women. The first is the Asylum Instruction referred to above and the second is Policy Bulletin 70 on meeting the needs of women asylum seekers affected by domestic violence whilst living in UKBA supported accommodation.



## 2. Women in the criminal justice system

### a. Policies and procedures for women reporting rape/domestic violence

The police and Crown Prosecution Service (CPS) have many policies and a raft of procedures to make it easier for a woman to report rape or domestic violence. A woman alleging rape or domestic violence should be supported by a Specially Trained Officer throughout the police investigation and at any subsequent trial. When she is interviewed about the violence she has experienced she can ask for a female police officer to be present, as well as a professional to ensure that she has the support she needs. In addition, survivors should be offered specialist support by someone like an Independent Sexual Violence Advocate. The decision to charge the suspect, or to alter any charges that have been brought, is taken by a prosecutor who has received specialist training.

A woman in the asylum determination process faces many obstacles. At screening stage she has to speak through a screen in a public office severely limiting confidentiality. She should be asked whether she would prefer a male or female interviewer but her preference will not always be followed up because of operational constraints. Even if she requests a female interviewer, she may be given a male interpreter. At the First Reporting Event, she meets one UKBA member of staff and at her substantive interview she is likely to be allocated a different member of staff. This means she cannot build up the trust she needs to disclose what has happened to her. She is likely to find it traumatic to have to keep repeating the story of the violence she has experienced. She may have to relate her experiences in front of her children. The system is too fast to allow her to develop trust in the person interviewing her.

**b. Policies in relation to women: courts and tribunals**

In the criminal courts special measures are available to vulnerable and intimidated witnesses, including to a woman who has experienced rape, sexual or domestic violence to enable her to give her “best evidence”. In these cases the CPS can apply for special measures, including the use of screens, live links or video recorded evidence-in-chief. A woman experiencing domestic violence may have her case heard in a Specialist Domestic Violence Court. Once someone is charged with an offence against her, a survivor of domestic or sexual violence will be supported by a Witness Care Unit. The Witness Service also provides support including pre-court visits.

The Ministry of Justice reports the following recent specialist legal training for judges in the criminal courts:

- Judges have received training on domestic violence, particularly those in the specialist domestic violence courts.
- Judges who deal with rape and murder cases receive specific training and have to be ‘ticketed’ or approved to hear such cases.

There is no specialist training for Immigration Judges on rape, domestic violence or any other form of violence against women.

The Judicial Studies Board’s Equal Treatment Bench Book contains guidance for criminal judges on domestic violence and sexual offences. This includes the prevalence of domestic violence and sexual offences, the reasons why victims often do not report such crimes and the judge’s role in protecting the victim.

The equivalent of the criminal court is the Asylum and Immigration Tribunal (AIT). The AIT’s predecessor, the Immigration Appellate Authority had gender guidelines in place in relation to appeals from 2000 and these were seemingly transferred to the AIT in 2004, but in September 2006 the President of the AIT stated that these were not the AIT’s policy and they were removed from the AIT website. Asylum Aid has been spearheading a campaign to get equivalent information about issues affecting women asylum seekers into the Equal Treatment Bench Book for Immigration Judges at the AIT.

The work and judiciary of the AIT are due to be transferred to the new unified Tribunal in early 2010. The new unified Tribunal is currently consulting on Practice Directions and Statements which includes guidance on how the Tribunal should treat evidence. The relevant guidance contained in the Gender Guidelines should be updated and included within the new regulations issued by the Tribunal.

Whilst the idea of giving “best evidence” has gained momentum over the past decade in the criminal courts, the importance of enabling women asylum seekers to explain their asylum claim in the best way possible does not yet seem to have been considered by the Tribunal responsible for considering asylum appeals .



*“Rather than going to a detention centre, it’s good for me to be in prison for the rest of my life”*

*Cecilia, from Cameroon*

### **3. Policies relating to detained women**

In the main, women in prison are held because they have been charged with or convicted of a criminal offence. If they are on remand they can apply for bail; if they have been convicted most receive a definite sentence or a minimum term of imprisonment. One in three women in prison have suffered sexual abuse.

HM Prison Service has a Prison Service Order on *Establishing an appropriate staff gender mix in establishments* which states that the appropriate ratio is generally considered to be 60:40 female to male staff. It states this is because “women who have been abused by men may feel safer in a predominantly female environment” and “there are also issues of decency and security that need to be dealt with by women staff”.

After an inspection of a women’s prison in November 2008, HM Chief Inspector of Prisons reported “There were too many male staff for a women’s prison, with 42% male officers and 58% women.” She recommended that efforts be made to increase the proportion of women officers to 78%.

Asylum seekers are detained in Immigration Removal Centres (IRCs) under administrative powers – claiming asylum is not a criminal offence. Their detention is indefinite and not subject to automatic judicial oversight. Some women seeking asylum are detained on arrival in the UK, others after their asylum claim has been refused often with a view to removing them to their country of origin. “A substantial proportion of refugee women arriving in the UK can be assumed ... to have survived rape, attempted rape, other sexual violence or sexual exploitation.”

Yarl's Wood is the main IRC for women asylum seekers and families. There is no published guidance as to the target ratio of female staff in IRCs where women are detained. Yarl's Wood IRC does not make the proportion of female staff it employs public. During September 2009, advertisements for new Detention Custody Officers to work at Yarl's Wood IRC stated that women were underrepresented and they were particularly looking to recruit more.

Tinsley House is an IRC with the capacity to hold 116 men and five women (as well as four families detained in a separate unit). The single women have separate bedrooms but share other facilities with the men. With such a disproportionate number of females to males, women feel intimidated, scared and isolated. Quite often a woman can be the only female detainee surrounded by 116 males. In her report of an inspection held in March 2008, HM Chief Inspector of Prisons reported "We were particularly troubled by the plight of single women. Their numbers had dwindled. At one point during the inspection there was only one and she lay in bed most of the day avoiding the communal accommodation. The amount and quality of accommodation now afforded to single women had been reduced, and they appeared marginalised and almost forgotten. They were left to share facilities within a mainly male establishment and this could be both embarrassing and intimidating. Their situation should be addressed as a matter of urgency."

People who come to the UK to claim asylum should not be detained but if they are, safeguards should be put in place. Standards considered appropriate for residential institutions where women offenders are detained should also be appropriate for residential institutions where women asylum seekers are detained. As women asylum seekers are detained due to immigration matters, not a criminal offence, they should be detained in the best conditions possible and never in conditions below those of women prisoners. Where there is good practice in the prison service, this needs to be transferred to the immigration service.

*“It was horrible, my pregnancy... I was homeless. I slept in Victoria station for three months.”*

*Rahel, from Ethiopia.*



#### **4. Benefits during pregnancy**

When a woman is pregnant she is especially vulnerable both in terms of her own health and that of her unborn baby. In the UK particular attention is paid to a woman at this time, with an emphasis on healthy living and good nutrition. Her needs range from accommodation and financial benefits to healthcare. The following comparisons focus on women who are pregnant.

A single woman who is British or is settled in the UK and has no employment history can expect to receive an income of £50 to £65 per week depending on her age, housing assistance, plus at least £690 by way of one off grants. She will be entitled to free healthcare.

In comparison, a single woman whose asylum claim is in process will receive £35 by way of benefits plus £3 per week, no-choice accommodation, bills paid and a £300 maternity grant which, in practice, is often only received once she has given birth. She will be eligible for free healthcare.

A single woman who has been refused asylum will receive, when her baby is due in six weeks or less, no-choice accommodation, bills paid and approximately half of the maternity grant and income that the British woman gets but in supermarket vouchers, not cash. Once the baby is 6 weeks old, the policy states that this support should stop. She will be charged for secondary healthcare.

A single woman who has been refused asylum completely will receive nothing at all until six weeks before her baby is due (unless she can meet the strict criteria for section 4 support or local authority support). She will be charged for secondary healthcare.

The fact that there are pregnant women who are destitute is a huge indictment of our asylum and welfare system. If the Government recognises that a woman settled in the UK requires a certain sum of money to keep herself and her unborn child healthy, there is no reason why a woman who has claimed asylum should require any less. Indeed, they should have the right to an equivalent level of financial support and healthcare during pregnancy.

# Experiences Compared

Angela is a British woman in the UK.

Malaika is a woman asylum seeker in the UK.

Their stories are based solely on current legislation and policies.

## Angela's experience

After experiencing years of domestic violence, Angela is raped by her husband in the UK	
Six months later, after getting support from a refuge, Angela reports the rape to the police	A Specially Trained Officer (STO) is assigned to Angela's case to support her throughout the investigative process. A female officer is assigned to take Angela's statement.
	The police discuss the support options available to Angela and refer her to Victim Support and a local women's organisation who offer her the support of an Independent Sexual Violence Advocate (ISVA).
	Angela's statement is videoed and, in accordance with the guidance on Achieving Best Evidence in Criminal Proceedings Angela is accompanied by her ISVA.
The Crown Prosecution Service charges Angela's husband with rape under the Sexual Offences Act	The decision to charge is taken by a prosecutor who has received training on domestic and sexual violence. In each CPS area there is a Violence Against Women or Area Rape Coordinator monitoring the prosecution of rape and other serious sexual violence cases.
	Angela's case is heard in a specialist Crown Court
	The judge has had training on sexual violence issues
	As a survivor of sexual violence under the Youth Justice and Criminal Evidence Act Angela's video statement is accepted as her evidence-in-chief so that she does not have to repeat her story, and she is cross-examined via a video link rather than appearing in court in person.
	Following the Court of Appeal judgement in <i>Doody</i> , the judge directs the jury that there are many reasons why women may delay reporting sexual violence to the police and it is for them to decide why Angela delayed in reporting sexual violence.
Angela's husband is convicted of rape and sentenced to prison	
	Angela has received protection from the UK's legislation, policies and procedures regarding violence against women

## Malaika's experience

After experiencing years of domestic violence, Malaika is raped by her husband in their home country	
A week later, Malaika reports the rape to the police	The police tell Malaika her place is with her husband and she should go home
	There are no laws against domestic violence or marital rape in Malaika's country
Malaika's husband continues to threaten and abuse her	
Malaika tells her brother. They decide that because her husband is a powerful person the only way Malaika will be safe is to go abroad	
Malaika's brother pays an agent to get her a false passport and buys her a plane ticket to London	
Malaika arrives at Heathrow and claims asylum	An immigration officer takes Malaika to an interview room and asks her a few questions
Malaika is taken to the Asylum Screening Unit in Croydon	Malaika is asked about her asylum claim by another immigration officer in a public room where she has to speak through a screen
	Malaika is asked whether she would prefer a male or female immigration officer to consider her asylum claim and opts for a female officer
The next day, Malaika is dispersed elsewhere in the UK and allocated to a UK Border Agency (UKBA) asylum team	
A day later Malaika attends a first reporting event	UKBA assigns her a female interpreter and a female immigration officer who informs her about the asylum system
Less than a week later, Malaika has her substantive interview	UKBA assigns her a different female immigration officer and the same female interpreter. Malaika has to tell her story again. She talks of her husband's violence but cannot bring herself to talk about the rape. She has no legal representative.
	UKBA has a single relevant policy, the <i>Asylum Instruction on gender issues in the asylum claim</i>
Malaika is refused asylum	
Malaika finds a female solicitor and tells her about the rape	
The solicitor takes Malaika's appeal to the Asylum and Immigration Tribunal	Malaika's solicitor asks for an all female court which is allowed
	There is no specialist court on women's issues and no guidance on violence against women for Immigration Judges
	The Immigration Judge says that because Malaika didn't mention the rape during her initial asylum claim, this goes against her credibility, ie she doesn't believe her. (She also says even if she had accepted Malaika's claim, she would have said that Malaika could go and live somewhere else in her country as this is a domestic issue.)
Malaika's appeal is refused	UKBA stops providing accommodation and financial support and tells Malaika to continue reporting to their office on a weekly basis
Malaika becomes destitute. She accepts the offer of accommodation from a man she meets in the street who then sexually abuses her.	Malaika does not go to the police because they were no help in her home country and because of her immigration status
Six months later, when she goes to report to UKBA, Malaika is detained. She spends three weeks in an Immigration Removal Centre for women and families	Malaika is frightened as there are male staff in the residential areas of the Immigration Removal Centre. About 50% of the staff are female. (In a prison for women, the staffing ratio would have to be 60% female)
Malaika is deported to her country of origin	
	Malaika has not received protection from the UK's legislation, policies and procedures regarding violence against women

# Conclusion

The examples outlined above demonstrate that the legislation, policies and guidance which provide a more gender-sensitive system for women settled in the UK have only been transferred to the asylum system to a very limited extent. Given that a major culture change has taken place in the criminal justice system, a similar change should be possible within the asylum system.

The disparities identified in this report lend support to the following demands under the *Charter of rights of women seeking asylum*.

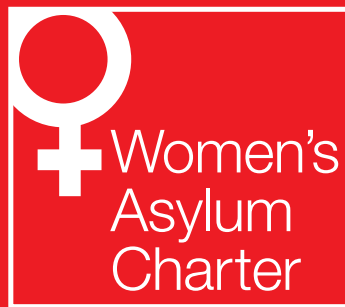
**Women who are seeking protection from human rights abuses abroad have a right to a comparable standard of treatment to women settled in the UK in similar situations.**

In particular this means:

- Women asylum seekers who have experienced rape or domestic violence etc in their country of origin should receive a comparable standard of treatment throughout the UK asylum system to women victims of rape or domestic violence in the criminal justice system
- Women asylum seekers detained in Immigration Removal Centres should receive, at a minimum, a comparable standard of treatment and facilities to women in prisons in the UK
- Women asylum seekers who are pregnant should receive a comparable standard of ante- and post- natal provision and benefits to women settled in the UK

**In conclusion, a change of culture designed to produce a genuinely gender sensitive asylum system is urgently needed to ensure that women asylum seekers receive a comparable standard of treatment to women in similar situations who are settled in the UK.**





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

Website: [www.asylumaid.org.uk/charter](http://www.asylumaid.org.uk/charter)  
Email: [charter@asylumaid.org.uk](mailto:charter@asylumaid.org.uk)