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# Women's Asylum News

Women's Project at Asylum Aid

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## Rape and sexual violence: the experiences of refugee women in the UK

Sarah Cutler, Head of Policy and Public Affairs at the Refugee Council, has kindly written the article below outlining current difficulties facing refugee and asylum seeking women in the UK.

*This article summarises the Refugee Council's key concerns about the situation of refugee and asylum seeking women in the UK who have survived rape and sexual violence, based on our experience of working with women to provide specialist support, practical help and counselling.*

*It highlights our casework experience, and identifies the priorities for policy change to improve the situation of refugee women in the UK.*

A significant proportion of refugee women living in the UK have experienced violence, including rape or sexual violence. With limited opportunities to seek protection within their own countries and restrictions on international travel, many women survivors of violence are forced to subject themselves to further risks of violence in their quest for protection. Women are being raped by smugglers, or forced to 'exchange' sex for passage to safety to the UK, indicating that a growing

number of refugees are at risk of trafficking for sexual exploitation as a result of the limitations to accessing protection.<sup>1</sup>

The Refugee Council's experience is that significant numbers of refugees in the UK report suffering physical and sexual violence before, during and after their journey to the UK. Once in the UK, refugee women are highly likely to belong to one or more of the groups that are at higher than average risk of rape, and the risks of violence are particularly acute for thousands of women who are left destitute when their asylum claims are refused.

### **Refugee Council direct work with women asylum seekers**

The Vulnerable Women's Project (VWP) was established at the end of 2006 with the support of Comic Relief to address the needs of refugee and asylum seeking women who had been subjected to sexual violence, including rape. The project has provided a holistic approach to assisting women who have survived rape and sexual violence through therapeutic casework, including counselling, advocacy, and practical support.

The project has worked with hundreds of women:

- 76% had been raped, either in their country of origin or the UK
- 76% were experiencing trauma-related psychological distress
- 35% had suffered some form of violence
- 27% had physical injuries from their experiences of violence
- 22% had suffered sexual abuse
- 20% had gynecological problems as a result of their experiences of sexual violence
- 15% had become pregnant as a result of rape
- 9% had been threatened with rape or sexual abuse while in detention in their country of origin
- 5% had a child as a result of rape

For many of the women, choices are very limited as they are at the end of the asylum process and are destitute. Being in direct contact with the project worker enables us to reduce the risk of their re-victimisation and sexual exploitation. We advise them about their rights and entitlements and support them when thinking through their options. Through our day centre, we provide hot meals, showers and laundry facilities, and emergency provisions such as sleeping bags, clothing, food parcels, toiletries and baby packs. We also distribute condoms and sexual-health self-test kits. Women can learn English and participate in regular Women's Groups.

### **Priorities for policy change to protect refugee women**

Based on the experiences of our women clients, we are pushing for urgent cross-government action in five key areas.

#### **Destitution**

The government policy of enforced destitution has very clear gendered impacts, as it exposes women to unacceptable risks of violence, and forces them into exploitative situations, including prostitution, in order to survive.

Poverty has been documented as increasing the risk of sexual violence; research shows that women living on less than £10,000 a year are more than three times as likely to report being raped as women from households with an income of more than £20,000. The vast majority of asylum seekers live in poverty and many refused asylum seekers are completely destitute with no financial support, or are

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<sup>1</sup> See Refugee Council (2009) The Vulnerable Women's Project: Refugee and asylum seeking women affected by rape or sexual violence; a literature review.

reliant on the limited weekly amount provided by the UKBA through section 4 payment cards. This places women at greater risk of being subject to violence, which is further increased by the fact that they lack the right to work or a means by which to provide for themselves and their families independently.<sup>2</sup>

We have worked with many women, including young women who arrived in the UK as children, who have been raped and subjected to violence because they are refused asylum and are not entitled to accommodation or any financial support, leaving them destitute and vulnerable, or forced into prostitution.<sup>3</sup> One woman explained,

“The money we’re given to live on – £30 per week – is far too little, and I have to cover everything for myself – food, clothes, everything. So I have to use my body to earn more – sleeping with people for money to eat, because I have to cover everything for myself.”

In order to reduce violence against asylum seeking women:

- asylum seekers must not be left destitute and should be entitled to work or to receive cash support throughout the asylum process, until they are granted status or leave the UK.
- Priority should be given to developing appropriate safeguards to ensure that asylum seeking women are not forced into living arrangements that make them more vulnerable to sexual violence and exploitation.

### **Speed, flexibility and legal representation in the asylum process – a gender sensitive system?**

A lack of gender sensitivity in the asylum procedure and evidence assessment of asylum claims, combined with limited access to legal representation, has further restricted women’s access to protection in the UK. Survivors of sexual violence still suffer from a shortage of female interviewers and interpreters, from being wrongly detained during the process, from decision-makers lacking the skills to assess gender issues and making incorrect assumptions about their credibility in the face of medical evidence, and from the poor quality of information used about women’s situations in their countries of origin. We struggle to find legal representatives willing or able to take on women’s cases and many are left unrepresented or are charged for poor quality advice.

Many of our clients are also penalised by the tight time scale for processing asylum claims; women are penalised if they fail to disclose the full extent of their experiences at their asylum interview.

Women’s claims should never be subjected to the detained fast track process; change is urgently needed so that the asylum procedure is sufficiently flexible in order to enable women to fully disclose their experiences. The consequences of the failure to do this are severe: women will continue to have their asylum claims wrongly refused resulting in creating unnecessary situations of destitution in the UK, leaving them excluded from accessing support services, and vulnerable to further violence and exploitation.

Failure to provide childcare at asylum interviews in all UKBA regions is adding a layer of risk to the security of women and their families. While some UKBA regions have started introducing childcare for women at asylum interviews, this is not a universal practice. As one woman we work with told us,

“Children should not be in the room when their parents are interviewed, as this can be very distressing for them – as well as their parents – there are personal things about what’s happened to you that shouldn’t be said in front of a child.”

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<sup>2</sup> Around 80% of female asylum claims are rejected, so destitution is a reality for the majority of female asylum seekers who find themselves unable to return to their countries due to fear of persecution and lack of protection (see Home Office Asylum Statistical Bulletin 2007 Asylum Statistics UK <http://www.homeoffice.gov.uk/rds/pdfs08/hosb1108.pdf>).

<sup>3</sup> Examples of cases of destitute women who have been subjected to sexual violence as a result of their destitution are contained within the Refugee Council’s Vulnerable Women’s Project publications (2009).

Women must be given a fair chance to secure protection. This means urgent action to:

- Ensure timescales are sufficiently flexible for women survivors of rape and sexual violence to be able to fully disclose their experiences in support of their asylum claims.
- End the detained fast track asylum determination process end for women's claims.
- Ensure provision of childcare to asylum seeking women during interviews.
- Provide women with the option of being assisted and advised by female representatives and/or those with relevant expertise in gender violence. Contracts with legal suppliers, referrals, and the timing of interviews should be tailored and adjusted to allow this to happen.

### **Access to health services**

High quality and appropriate health services, including psychological support, are essential if women are to recover from the devastating impacts that violence, including sexual violence, have on their physical and psychological health. The introduction in 2004 of charges for secondary health care for all refused asylum seekers, among other overseas visitors, on the basis that this was necessary to reduce 'health tourism' has had a profound and negative impact on refused asylum seeking women. Survivors of sexual violence who have been rendered destitute and homeless can be denied treatment for the long-term serious injuries that resulted from their rape, as well as denied vital psychological support to assist their recovery. Revised guidance has been issued following legal challenges, but despite this, our clients continue to struggle to access primary and secondary health services, at all stages of the asylum process. We continue to work with women who have been refused services that are essential to their recovery from violence. Our clients have also been pursued for unpaid bills that they cannot afford.

On 26<sup>th</sup> February 2010, a Department of Health consultation was published proposing that refused asylum seekers receiving UKBA Section 4 or Section 95 support would get free health care. This will still leave those who fall victim to the appalling delays and inefficiency in the support system, liable to charges and pursuit of debts, deterring them from accessing services. We will be pushing for free access to health care for all refused asylum seekers to be implemented as a matter of urgency (**see our website for information about how to get involved in this campaign.**)

We must work together to ensure that:

- All refugees, asylum seekers and refused asylum seekers who require physical and psychological health services in order to recover from the violence they have experienced are entitled to services in the same way as other women survivors of violence.
- The government ensures that free, high quality and appropriate health care services are available to all women, including women whose asylum claims have been refused.

### **The mainstream agenda on violence against women**

On 25<sup>th</sup> November 2009, the Government published its strategy aiming to bring an end to violence against women and girls.<sup>4</sup> While it commits to ensuring staff working with refugees are trained to identify and respond to evidence of violence, and that UKBA guidance in offering appropriate support will be enhanced and strengthened, there is nothing in the strategy to ensure access to appropriate services for refugee and asylum seeking women fleeing violence will improve.

Feelings of exclusion and protection by mainstream agendas are felt in the daily realities of life for refugee women, which in turn affects their confidence to seek help and their ability to remove themselves from contexts of violence. One woman commented to the Refugee Council:

"There are not enough services available to asylum seekers and refugees facing domestic violence – they are told that it should be dealt with in the family."

<sup>4</sup> <http://www.homeoffice.gov.uk/documents/vawg-strategy-2009/>

This is a missed opportunity to send a signal to refugee and asylum seeking women that their experiences of violence will be treated as seriously as those of other women.

To redress this situation:

- Future mainstream violence against women efforts must explicitly address the particular needs and vulnerabilities of refugee and asylum seeking women and children in the UK.
- Criminal justice authorities should ensure that removal action does not result from asylum seeking women whose claims have been refused reporting crimes of violence and that the voluntary sector to ensure that refugee women are supported and encouraged to report crimes against them.
- Service providers to survivors of violence against women must be allowed to include refugees and asylum seekers in their service delivery, and ensure those services are accessible and appropriate.

Whoever is elected at the general election on 6<sup>th</sup> May, those working to see a fair and just asylum process in the UK must push for urgent changes to make the asylum process fit for survivors of rape and sexual violence, and prevent women from being subject to further violence when in the UK.

To this end, the Refugee Council will continue to support the Charter for the Rights of Asylum Seeking Women and will be making the case to the next administration for the gender-sensitive asylum system. See <http://www.asylumaid.org.uk/pages/charterbackground.html>

See [www.refugeecouncil.org.uk](http://www.refugeecouncil.org.uk) for further information or contact Sarah Cutler, Head of Policy and Public Affairs [sarah.cutler@refugeecouncil.org.uk](mailto:sarah.cutler@refugeecouncil.org.uk)

Women's Asylum News would like to thank Sarah Cutler for writing this lead article.

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## Relevant Legal Issues

### Trafficking in Albania: Particular Social Group and Internal Relocation

#### ***AM and BM (Trafficked women) Albania CG [2010] UKUT 80 (IAC) - Immigration and Asylum Chamber, Upper Tribunal, 18 March 2010***

This case before the Immigration and Asylum Chamber of the Upper Tribunal is relevant to women seeking asylum, in particular in relation to the definition of a Particular Social Group (PSG) and the application of the Internal Flight Alternative (IFA).

The Tribunal found that trafficked women in Albania can be defined as a Particular Social Group for the purpose of the UN 1951 Refugee Convention. The risk of persecution must be assessed on their individual circumstances but decision-makers should consider in particular: the social status and economic standing of the trafficked woman's family; the level of education of the trafficked woman or her family; the trafficked woman's state of health, particularly her mental health; the presence of an illegitimate child; the area of origin of the trafficked woman's family and the trafficked woman's age. The Court found that trafficked women in Albania were members of a Particular Social Group because they shared the immutable characteristic of having been trafficked. Having been trafficked is also the reason why they would be perceived by the wider Albanian society as a Particular Social Group.

The Tribunal also concluded that psychological damage of victims of trafficking may have an impact on their ability to relocate. The strict code of honour operating in Albania means that it is difficult for trafficked women to reintegrate their home areas or to relocate elsewhere. Furthermore, trafficked women with children outside marriage are particularly vulnerable on return to Albania. Women who have sought out traffickers themselves to facilitate their departure from Albania may be treated as trafficked due to the violence and later lack of freedom within the relationship. In terms of effectiveness and availability of state protection, the Tribunal noted that decision-makers must consider the individual circumstances of each asylum-seeker in determining whether s/he will be able to access effective state protection from trafficking.

The Tribunal in this case applied the case of **SB (PSG - Protection Regulations – Reg 6) Moldova CG [2008] UKAIT 00002** in the assessment of whether the appellant fell into a Particular Social Group. The Tribunal concluded that “just as trafficked women would be considered to be members of a particular social group in Moldova victims of trafficking in Albania would, applying the dicta of Baroness Hale in **Hoxha**<sup>5</sup> would be members of a particular social group”. This is a much more fluid interpretation of an immutable characteristic previously adopted such as sexual identity and gender but the Tribunal did not address the specific question of whether the two limbs of regulation 6(1)(d) had to be satisfied in order to define an individual as a member of a Particular Social Group. It did however identify one element which satisfied both limbs.

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## Returns to Greece under the Dublin Regulation

### *Saeedi v. SSHD [2010] EWHC 705 (Admin)* – Administrative Court

This case examined the lawfulness of certificates under Schedule 3 of the Asylum and Immigration (Treatment of Claimants etc) Act 2004 for the purpose of returns to Greece from the UK under the Dublin Regulation and the scope of discretion in Article 3(2) of the Dublin Regulation (the “sovereignty clause”). Saeedi argued that his return to Greece under the Dublin Regulation would breach the UK’s obligations under Article 3 ECHR. Saeedi is an Afghan national who fled his country when the Afghan authorities discovered he had converted to Christianity. Saeedi was detained twice in Greece before travelling to the UK through other EU countries where he claimed asylum. In April 2009 the UK authorities informed Saeedi that he would be returned to Greece under the Dublin Regulation as a fingerprint match on the Eurodac database revealed he had been in Greece before claiming asylum in the UK. Greece was deemed to have accepted responsibility for examining his claim for asylum by default as they had failed to respond to the UK’s request within the prescribed time limits.

Cranston J considered Saeedi’s threefold submission. Firstly, that the Secretary of State was wrong in certifying his claim that returning him to Greece would breach Article 3 ECHR as clearly unfounded. Alternatively, that it is incompatible with the UK’s obligations under Article 3 ECHR to automatically consider Greece a “safe third country” from which he would not be *refouled*. Finally, the Secretary of State should apply its discretion in applying the responsibility sharing mechanism under the Dublin Regulation in light of the rights and safeguards contained in wider EU law.

The Administrative Court’s approach to Saeedi’s submissions was to consider whether the position of Dublin returnees to Greece were in a worse position since the House of Lords’ decision in **Nasseri**.<sup>6</sup> The House of Lords found in the case of **Nasseri** that there was no evidence showing that there was a real risk that returnees to Greece would be sent back to another country in breach of Article 3 ECHR and that the provisions of UK law that prohibited the consideration of that issue in respect of listed countries was not incompatible with the UK’s obligations under the ECHR. Cranston J

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<sup>5</sup> *Hoxha & Anor v Secretary of State for the Home Department* [2005] UKHL 19 (10 March 2005).

<sup>6</sup> *Nasseri* [2010] 1 AC 1.

considered extensive submissions and evidence from the parties and from Amnesty International, the AIRE Centre (Advice on Individual Rights in Europe) and UNHCR.

He dismissed the application but granted permission to appeal to the Court of Appeal to the applicant.

### *Article 3: Refoulement and Prison Conditions*

Cranston J concluded that there was evidence that some Afghan asylum seekers had been returned from Greece to Afghanistan but he found that these returns were voluntary as Saeedi was unable to show evidence to the contrary. He also concluded that the evidence did not show circumstances materially different from **Nasseri** and **KRS**<sup>7</sup> because, although it was reported that there were complaints of *refoulement* from Greece to Turkey, none of these were Dublin returnees and the Greek authorities had given assurances that no Dublin returnees would be sent to the border area with Turkey or sent to Turkey.

Therefore, Cranston J refused to quash the certificate issued against Saeedi that his human rights claim to Greece was clearly unfounded because on anxious scrutiny he found that there were not substantial grounds for believing that return to Greece would expose Saeedi to a real risk of being subject to treatment contrary to Article 3 ECHR. He clarified that the evidence of a risk of detention for Dublin returnees was too speculative to create substantial grounds for believing that there is a real risk of detention in conditions that breach Article 3 ECHR.

Further, Cranston J refused to declare the provision of Schedule 3 of the Asylum and Immigration (Treatment of Claimants etc) Act 2004 incompatible with Article 3 ECHR by applying the House of Lords' decision in **Nasseri** which had relied on **KRS**. He also agreed with the House of Lords in **Nasseri** that there was a presumption that Greece met its obligations under the ECHR and the Refugee Convention.

### *Article 3: Asylum Procedures and Conditions*

In terms of asylum procedures in Greece, Cranston J found that they remained "shaky" as described Laws LJ in **Nasseri**, that Dublin returnees may not have a meaningful access to the asylum determination procedure and that they might be served with deportation order without being able to pursue their claims. On this basis, however, the Judge found that the situation was not materially different from the findings in **KRS** and **Nasseri** and that therefore return of Saeedi to Greece would not breach Article 3 ECHR.

The Judge adopted the same approach and findings in relation to conditions on return to Greece. Despite labeling the conditions for asylum seekers in Greece as "appalling", he found that they are not materially worse than when the courts examined the cases of **KRS** and **Nasseri**. The Judge relied on the cases of **Limbuella**<sup>8</sup> and **N**<sup>9</sup> before the House of Lords to conclude that "the failure of the Greek Government to provide the means of subsistence does not amount to a breach of Article 3 by the Secretary of State in this type of expulsion case".<sup>10</sup> This was due to the weak link between destitution in the receiving state and returns under the Dublin Regulation by the UK, he said. In effect, Cranston J concluded that return to another Member State under the Dublin regulation cannot be challenged on the basis of asylum procedures and reception conditions in the receiving state.

### *The "Sovereignty Clause" in the Dublin Regulation*

<sup>7</sup> KRS v United Kingdom (application no 32733/08), 2 December 2008. European Court of Human Rights

<sup>8</sup> Limbuella v SSHD [2005] UKHL 66.

<sup>9</sup> N v SSHD [2005] UKHL 31.

<sup>10</sup> Paragraph 137.

Cranston J referred to **Abdulla**<sup>11</sup> by stating that Article 3(2) of the Dublin Regulation must be interpreted and applied in the context of the Common European Asylum System (CEAS) and of fundamental rights recognized in the EU. He then went on to say that there is nothing in the Dublin Regulation that compels States to use Article 3(2) to examine the substantive rights of persons falling within the Regulation because some aspects of the CEAS are not fully observed in other Member States. He said this would be contrary to the purpose of the Dublin Regulation which sought to share responsibility, avoid “asylum shopping” and ensure swift decisions on responsibility. He did note however that the discretion clause of Article 3(2) should be exercised taking into account the rights enshrined in the EU Charter of Fundamental Rights. Interestingly, the judge noted on this point that “the case by case approach of the Secretary of State to returning asylum applicants to Greece under the Dublin Regulation does not assist in demonstrating that the Secretary of State has taken into account, as relevant factors, the fundamental rights guaranteed in European Union law”.<sup>12</sup>

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## Risk on Return to Iran for Christian Convert – Article 3 ECHR

### *Z.N.S. v. Turkey (Application no. 21896/08) - European Court of Human Rights*

This case is relevant to conditions of detention for women and risk of persecution/serious harm to Christian converts in Iran.

The applicant is an Iranian national who had been granted refugee status with her son in December 2008 by the UNHCR in Turkey, exercising its mandate, on religious grounds. UNHCR conducts refugee status determination in Turkey for those who claim they are refugees from countries outside Europe, because Turkey maintains the geographical limitation to the application of the Refugee Convention. The applicant had entered Turkey in 2002 and claimed asylum with the UNHCR in 2003. In 2004 she was detained by the Turkish authorities and deported to Iran. She claimed that on return to Iran she was detained for 9 months and subjected to ill-treatment. After her release she re-entered Turkey in 2005 and her case with the UNHCR had been closed. In 2006, she became interested in Christianity and was baptised in a Protestant Church in 2007. Her son was expelled from the Iranian Consulate School in Istanbul due to “conduct against the school’s faith”. The applicant also applied for a passport at the Iranian Consulate in Istanbul and she was asked to confirm in writing that she was a Christian. At the end of 2007, she asked the UNHCR to re-consider her application for refugee status. In May 2008, she was arrested on suspicion of lack of permission to remain in Turkey while the authorities made enquiries into her case. She stated that she had applied for refugee status because she opposed the current government in Iran and that she and her family had been oppressed while they were living in Iran. The authorities refused to release her pending the outcome of her application with the UNHCR and maintained that her detention was justified in light of Court proceedings relating to her deportation for use of false documentation. The authorities refused to release her and continued deportation proceedings after she was recognised as a refugee by UNHCR.

She applied to the European Court of Human Rights claiming that her deportation to Iran would breach Articles 2 and 3 ECHR. The applicant maintained that she was at risk of death or ill-treatment if returned to Iran due to her past anti-regime activities and the fact that the government of Iran knew that she had converted to Christianity. The Court found that the Turkish authorities had failed to consider her claim regarding her fear of return to Iran. The Court also gave due weight to the UNHCR’s assessment of risk to the applicant on return on religious grounds. The Court unanimously concluded that there were substantial grounds to believe that returning the applicant to Iran would breach her right not to be subjected to torture, inhuman or degrading treatment because of her religion.

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<sup>11</sup> Abdulla C-175/08, C-176/08, C-178/08 and C-179/08.

<sup>12</sup> Paragraph 158.

The applicant also made a claim under Articles 5(1), 5(3), 5(4), 6 and 13 ECHR that she was unlawfully detained and that her conditions of detention in the Kirklareli Foreigners' Admission and Accommodation Centre and her lack of medical treatment breached Article 3 ECHR. The court unanimously found a breach of Article 5(1) as placement in the Centre constituted a deprivation of liberty in light of the absence of clear legal provisions regulating detention for deportation and was therefore unlawful. The court found Turkey in breach of Article 5(4) ECHR due to the absence of a remedy providing speedy consideration of the lawfulness of detention. The Court did not find that Article 3 ECHR had been breached because they determined that the applicant was provided with adequate medical assistance and that the material conditions in the Centre were not sufficiently severe to bring them within the scope of Article 3 ECHR. The Court considered the standards set by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment on the conditions of detention of foreign nationals, an investigation into the centre by Human Rights Watch and by the Organisation for Human Rights and Solidarity for Oppressed People.

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## Unlawful Detention: Articles 3 and 5 ECHR

### ***Muskhadzhiyeva and others v. Belgium (application no. 41442/07) - European Court of Human Rights***

This case is relevant to conditions of detention for children and their mother and the test to be applied in claims under Article 3 ECHR by close family members of victims of torture, inhuman or degrading treatment.

The applicant is a Russian national of Chechen origin who was detained with her four children in the detention centre "Transit Centre 127 bis" in Belgium for over one month prior to their removal to Poland. The family claimed asylum in Belgium but as they had spent some time in a refugee camp in Poland, Poland agreed to take charge of them under the Dublin Regulation determining the Member State responsible for assessing asylum claims. In December 2006, the Belgian authorities issued a decision refusing permission to stay in the country and ordered them to leave. The next day, they were placed in a closed transit centre near the airport in Brussels. A request to release the family was examined and refused twice in January 2007. Several independent reports have highlighted the unsuitability of the centre to accommodate children and "Medecins sans frontieres" had produced a report showing the negative psychological effects of detention on the children. The family was removed to Poland at the end of January 2007.

The family claimed that their detention breached Articles 3, 5(1) and 5(4) ECHR. The Court found that there was a breach of Articles 3 and 5(1) ECHR in respect of the children but not of the mother. The Court distinguished this case from **Mubilanzila Mayeke and Kaniki Mitunga v. Belgium (Application no. 13178/03)** because the children were accompanied by their mother. The Court found however, that this fact did not exempt authorities from their obligations to protect children and to adopt adequate measures under the positive obligations of Article 3 ECHR. There was a breach of Article 3 ECHR in respect of the children due to their young age, the length of detention and their health.

The Court noted that whether a parent is a victim of ill-treatment in relation to the treatment inflicted on its child(ren) depends on the particular circumstances making the parent's suffering different in scale and nature from the inevitable emotional suffering of a family member whose relative is subjected to serious human rights violations. The Court argued that the fact that the mother had not been separated from the children lowered her distress and therefore did not reach the severity required to engage Belgium's obligations under Article 3 ECHR in her respect.

The Court found that the children's detention in the centre was unlawful but that the mother's detention was lawful. The Court applied the case of **Mubilanzila Mayeke and Kaniki Mitunga v. Belgium** and noted that there must be a link between the reason for lawful detention and the place and nature of detention (**Aerts v. Belgium, 61/1997/845/1051**). The Court found that the government was not in breach of Article 5(4) ECHR as two courts had examined the request for release without delay while the family was still in Belgium.

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## Cessation, Armed Conflict and the Qualification Directive

### ***Abdulla C-175/08, C-176/08, C-178/08 and C-179/08* - Court of Justice of the European Union**

This case is relevant in terms of interpreting Article 2(c), Articles 4 and 15 and subsidiary protection, Article 11(1)(e) of the Qualification Directive and cessation.

The reference for a preliminary ruling was made in the course of proceedings between Iraqi nationals and Germany. The appellants had been granted refugee status in Germany in 2001 and 2002 due to their fear of persecution by Saddam Hussein's Baath Party. In light of the changed circumstances in Iraq, the German authorities revoked the appellants' refugee statuses between January and August 2005. Between July and October 2005, the competent administrative courts set aside the revocation orders noting that the situation was still extremely unstable in Iraq and therefore there had not been a durable and lasting change in the situation justifying the revocation of their refugee statuses. Further to an appeal by the German authorities, the higher administrative courts overturned the decision by the lower court concluding that there was no longer any risk of persecution from the previous regime and there was no threat of future persecution on any other grounds. The appellants then appealed on a point of law to the Federal Administrative Court who sought a preliminary ruling from the Court of Justice of the EU.

The Court started by noting that it is clear from the recitals of the Directive that the Geneva Convention constitutes the cornerstone of the international legal regime for the protection of refugees and the Directive must therefore be interpreted in accordance with the Geneva Convention and in a manner that respects the fundamental rights and principles recognized in the EU Charter of Fundamental Rights.

Firstly, the Court said Article 11(1)(e) of the Directive means that the change of circumstances to justify revocation of refugee status must be of "significant and non-temporary nature" in the sense that the fear of persecution must have been "permanently eradicated" and there are no other reasons to fear persecution. The burden of proof is on the state revoking refugee status to demonstrate that, in light of the refugee's individual situation, actor(s) of protection "have taken reasonable steps to prevent the persecution, that they therefore operate, inter alia, an effective legal system for the detection, prosecution and punishment of acts constituting persecution" and that the person concerned will have access to such protection. The Court specified that actors of protection as defined in Article 7(1)(b) of the Directive included "international organisations controlling the State or a substantial part of the territory of the State, including by means of the presence of a multinational force in that territory".

Secondly, the Court also found that cessation of refugee status is not conditional on the finding that a person does not qualify for subsidiary protection. The Court specified that cessation did not preclude an individual to make a claim for subsidiary protection under Article 15 of the Directive.

Thirdly, the Court concluded that the standard of probability by which an assessment was made in cessation cases of whether there was another risk of persecution is the same which led to the initial

grant of refugee status. The assessment still relates to whether the individual has a well-founded fear of persecution. The Court specified that this assessment must be undertaken with "vigilance and care, since what are at issue are issues relating to the integrity of the person and to individual liberties, issues which relate to the fundamental values of the Union".

Fourthly, the Court found that Article 4(4) of the Directive (previous persecution/serious harm or direct threats of persecution/harm are serious indication of a well-founded fear of persecution or real risk of harm) applied in cessation cases where the individual concerned seeks to rely on circumstances other than those on the basis of which s/he was granted refugee status. This will normally only be the case when the grounds of the refugee claim are different from the initial one and when there are earlier acts or threats of persecution connected with the new examination of the claim for asylum.

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## National News

### Home Affairs Committee publishes report on asylum cases backlog

The House of Commons' Home Affairs Committee has published its twelfth report of session 2009-2010 on the "UK Border Agency: Follow-up on Asylum Cases and E-Borders Programme" on 7 April 2010. The role of the Home Affairs Committee is to examine the expenditure, administration, and policy of the Home Office and its associated public bodies.

The report is a follow up from a December 2009 report in which the Home Affairs Committee expressed concerns that the backlog of asylum cases was not being cleared as quickly as desired. Despite assurances from the government that asylum cases in the Case Resolution Directorate would be dealt with by July 2011, the assessment by the Independent Chief Inspector revealed that the way in which the cases were being handled would not meet the deadline and that the UKBA should either apply more resources to the backlog or change the way in which the cases were being reviewed and the decisions made. Further, the Independent Chief Inspector noted that a new backlog of new asylum cases was arising as a result of the agency setting unrealistic targets because managers had failed to consult staff taking decisions on cases.

The report contains oral evidence from the whistle blower at the UKBA, Lin Homer and John Vine, Independent Chief Inspector. On 2 March 2010, the Committee heard oral evidence from a former employee of the UKBA who had reported offensive and inappropriate behavior by her colleagues. Lin Homer, the Chief Executive of the UKBA was asked by the Committee about the reported hunger strike at Yarl's Wood Immigration Removal Centre. She responded that although the women concerned did not eat food at the canteen they bought food from the shop and the vending machines and had access to medical care at all times. The Committee urged its successor in the next Parliament to follow up the issues raised in the report.

For full report see: <http://www.publications.parliament.uk/pa/cm200910/cmselect/cmhaff/406/406.pdf>

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## New Equality Act 2010

The Parliament passed the Equality Act 2010 which received Royal Assent on 8 April 2010. It contains a series of measures for tackling inequalities. The new legislation is aimed at consolidating and simplifying existing equality laws, taking into account age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation. The Act codifies 116

existing pieces of equality legislation making it easier to access and refer to. It also creates an "equality duty" on all public bodies which means that all public institutions have a positive duty to promote equality. The public sector equality duty will be introduced in April 2011. The Equality and Human Rights Commission is working on Codes and Guidance to further facilitate public access to the contents of the Act.

For full article see: <http://www.equalityhumanrights.com/media-centre/2010/april/commission-welcomes-landmark-equality-legislation/>

For access to the Act see: [http://www.opsi.gov.uk/acts/acts2010/pdf/ukpga\\_20100015\\_en.pdf](http://www.opsi.gov.uk/acts/acts2010/pdf/ukpga_20100015_en.pdf)

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## International News

### Afghanistan: Increasing risk of violence against women

On 5 April 2010, a female Afghan minister was left in critical condition after being injured in a drive-by shooting attack in Pul-e-Khumri, the provincial capital of Baghlan in northern Afghanistan. Amnesty International has denounced this attack as an example of the lack of advances on women's rights in Afghanistan. The human rights organisation said that the Afghan government and the international armed forces have failed to ensure that women working in public office and human rights defenders are safe. There have been numerous reports of attacks on women holding public offices.

For full articles see: <http://www.amnesty.org/en/news-and-updates/attack-afghan-female-politician-highlights-growing-risk-women-2010-04-08> and <http://jha.ac/2010/04/07/hearing-their-voices-and-meeting-their-needs-victims-of-violence-against-women-in-afghanistan/>

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### Lebanon: Prevalence of domestic violence

A photographic exhibition called "Behind the Doors" in Lebanon has highlighted the extent of domestic violence in the country. Campaigners have estimated that at least three quarters of Lebanese women will experience domestic violence at some point in their lives. Domestic violence and marital rape are not covered in the penal code. Sharia courts are responsible for examining such claims and Islamic laws often favour husbands. A draft law pending before the Lebanese Parliament would give civil courts jurisdiction to examine domestic violence cases.

For full article see: [http://news.bbc.co.uk/1/hi/world/middle\\_east/8392475.stm](http://news.bbc.co.uk/1/hi/world/middle_east/8392475.stm)

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### Pakistan: Honour killings and domestic violence

IRIN, the humanitarian news and analysis service of the UN Office for the Coordination of Humanitarian Affairs reported the story of a 25 years old woman who fled from her husband due to domestic violence and his threats of killing her "for honour" because he accused her of being involved with another man. In March 2010, the independent Human Rights Commission of Pakistan (HRCP) published statistics reporting that 647 women were killed in the name of 'honour' in 2009 - up 13 percent on the 574 killings in 2008. The HRCP also reported that there were 205 reported cases of domestic violence in 2009 – up from 137 the previous year. They noted that domestic violence cases

included burnings, torture and beatings. The Aurat Foundation NGO reported in February 2010 that 8,548 cases of violence against women had been recorded countrywide.

It is unclear whether this rise demonstrates an increase in domestic violence and killings or whether cases are increasingly reported. It is clear however that the phenomenon is under-reported. Women are often wary of making domestic violence a public issue.

For full article see: <http://www.irinnews.org/Report.aspx?ReportId=88636>

For HRCP statistics see: <http://www.hrcp-web.org/PDF/2009%20-%20Killings.pdf> and <http://www.hrcp-web.org/PDF/2009%20-%20Domestic%20Violence.pdf>

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## **Philippines: Conflict in Mindanao increases trafficking of women**

The conflict lasting for almost four decades between the government troops and the Moro Islamic Liberation Front (MILF) fighting for autonomy has increased the risk of human trafficking. Poverty is also one of the causes of trafficking in the Philippines. The 2009 US Department of State report found that there were an increasing number of children and women from Mindanao who were being trafficked internally and internationally for domestic work. The report noted that “traffickers use land and sea transportation to transfer victims from island provinces to major cities”. Many women are taken from private ports to Malaysia and from there to other countries in the Middle East.

It was reported that although an Anti-Trafficking in Persons Act was passed in 2003, only 13 traffickers had been arrested and convicted. This has been attributed to serious problems in the Philippines justice system such as endemic corruption, high turn-over of judges and lack of proper evidence. The US Department of State report on Trafficking placed the Philippines in the Tier 2 Watch list of countries who were not taking sufficient measures to eradicate trafficking. It stated in particular that “the government did not show evidence of progress in convicting trafficking offenders, particularly those responsible for labor trafficking; therefore, the Philippines is placed on Tier 2 Watch List”. It also noted the prevalence of trafficking for sexual exploitation and reported that “the number of convictions for sex trafficking offenders is low given the significant scope and magnitude of sex trafficking within the country and to destinations abroad. Achieving more tangible results in convicting trafficking offenders, and in investigating and prosecuting officials complicit in trafficking is essential for the Government of the Philippines to make more progress toward compliance with the minimum standards for the elimination of trafficking”.

For full article see: <http://www.irinnews.org/Report.aspx?ReportId=88631>

For full report see: <http://www.state.gov/documents/organization/123363.pdf>

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## **Somalia: Increase in trafficking of women for sexual and labour exploitation**

Officials in Somaliland have expressed concerns at the increase in trafficking in the area. The counter-trafficking project manager of the International Organisation for Migration's Somalia Support Office stated that the exact scale of human trafficking in Somalia is unknown. An assessment from the IOM showed the existence of international trafficking of Somali women to Djibouti, Kenya and the Gulf States, for sexual and labour exploitation. Further investigations confirmed the prevalent occurrence of domestic/internal human trafficking of Somali women and children for prostitution in Somaliland and

Puntland. The project manager at IOM also noted that the public and authorities were not familiar with the concept of human trafficking and that “the general lack of social services and issues of culture and social stigma make victims' reintegration extremely difficult”.

For full article see: <http://www.irinnews.org/Report.aspx?ReportId=88668>

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## **Yemen: Child brides and minimum age for marriage**

A 13 years old bride in Yemen died three days after her wedding of internal bleeding. The Arab Sisters Forum (Saf) rights group said that a medical report obtained from the hospital where she had been treated concluded that she had suffered a tear to her genitals and severe bleeding after intercourse. The death highlights the current debate in Yemen regarding the minimum age for marriage in a country where more than a quarter of girls are married before they turn 15. The International Center for Research on Women (ICRW) based in Washington-DC, reported that 48 percent of girls are married when they are under 18.

The minimum age for marriage was abolished in 1999 although the law stipulates that a girl should not sleep with her husband until she is “mature”. However, cases of child brides who have become public demonstrate that this is not always respected. A proposed law setting the minimum age for marriage at 17 for women and 18 for men was subject to serious debate between February 2009 and March 2010. The proposed amendments to the law impose a fine and up to a year's imprisonment for parents who marry their daughters before the age of 17 and their sons before the age of 18. A majority in the Parliament voted for the bill in February 2009 but it was opposed by the Sharia Committee and passed back to the Parliament's constitutional committee for review. In March 2010 some religious clerics issued a decree against a minimum age. On 7 April, the Yemenite Parliament passed the law setting the minimum age to marry for boys and girls to 17. Rights groups however, are concerned about the effective implementation of the law in practice due to the strong opposition to the law.

Human Rights activists are pressing for more child protection in Yemen and those opposing the law said it was against the Quran to set a minimum age for marriage. Yemen has signed and ratified the UN Convention on the Rights of the Child. Those opposing child marriage say that it deprives children of “a normal childhood and education” and there are also severe complications when giving birth.

For full articles see: [http://news.bbc.co.uk/1/hi/world/middle\\_east/8610491.stm](http://news.bbc.co.uk/1/hi/world/middle_east/8610491.stm),  
<http://www.irinnews.org/Report.aspx?ReportId=88589> and  
<http://www.yemenpost.net/Detail123456789.aspx?ID=100&SubID=155&MainCat=10>

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## **New Publications**

### ***Hearing Their Voices and Meeting Their Needs: Victims of Violence Against Women in Afghanistan***

**Journal of Humanitarian Assistance**  
**Kristine Herman**

The Gender Department of International Development Law Organization (IDLO) conducted several focus groups with women victims of violence in Afghanistan. The research explored the investigation and prosecution of crimes committed against women from a victim's centred perspective. Violence against women in Afghanistan has in practice not been viewed as a crime and is rarely investigated

by authorities, police or prosecutors. Until the creation of the VAW Unit, the Attorney General's Office of Afghanistan had not kept statistics for crimes of violence against women, and crimes such as rape and domestic or sexual assault and forced marriage are noticeably absent from the National Crime Statistics Unified Report for 2006-2007. In reality, entrenched cultural views about women in Afghanistan often means women are punished instead of protected for violence committed against them. As a result, many women are imprisoned for running away or for crimes of adultery (which is often a rape case but lacked sufficient evidence).

The research reveals common perceptions and experiences from women principally around three key issues: prosecution of the perpetrators of violence; prosecution and blaming of victims of violence and attempts to seek assistance through other mechanisms. The research highlights how despite nine years of international presence the situation for women is not improving. The transnational government has failed to address the human rights of women and women have little voice in influencing reform. The research concludes with a series of recommendations to inform the prosecution of the perpetrators of violence; to address the practice of victim prosecution and to allow women to seek assistance through other mechanisms.

For full article see:

<http://jha.ac/2010/04/07/hearing-their-voices-and-meeting-their-needs-victims-of-violence-against-women-in-afghanistan/>

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### ***Breaking the Silence: Sexual Violence in Cambodia***

**Amnesty International**

**Amnesty Index: ASA 23/00a/2010**

Amnesty International report how rape against women and girls in Cambodia is increasing. This report urges the Cambodian authorities to address the inadequacies of law enforcement in cases of gender based violence. The report argues the lack of effective investigation, prosecution and failure by the authorities' further harms victims. In addition, the culture of impunity and widespread corruption means victims of sexual violence in Cambodia are denied justice as they struggle to pay informal fees for health care services and obtain assistance and support. The research further argues how the acute lack of adequate services and assistance available for women add to the lack of information, understanding and availability of tracking facilities to help women after they report rape.

The research addresses several key components including: international law and standards; seeking remedy and assistance including outlining poverty, experiences with the police and rape after marriage; the national law and background information on women's status in society. The research concludes with key recommendation to help address discrimination against women; to incorporate provisions to combat sexual violence and trafficking; to remove financial barriers; to ensure effective reporting mechanisms; to develop adequate support services and ensuring courtrooms and proceedings are victim friendly.

For full research report see:

<http://www.amnesty.org/en/news-and-updates/report/cambodia-government-protect-victims-sexual-violence-reports-rape-increase>

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***"I can't afford justice": Violence against women in Uganda continues unchecked and unpunished***

**Amnesty International**  
**Amnesty Index: AFR 50/001/2010**

Amnesty International recently published research which identifies the obstacles faced by women in Uganda who report sexual and gender based violence. The research examines how laws, policies and practices coupled with women's access to education, may inhibit women and girls access to justice and equality before the law.

The government of Uganda has undertaken some steps to address violence against women and girls by drafting laws including legislation on Domestic Violence, Marriage and Divorce, Sexual Offences and Trafficking in Persons. However, these have yet to be passed into law, despite being submitted to parliament several years ago. This report argues how despite its efforts on the legislative front, the Ugandan state's response to gender-based violence falls short of its international obligation to prevent violence against women and to ensure women's access to justice. This gap allows perpetrators to escape prosecution and punishment for their crimes compounds the problem.

The report concludes with a series of recommendations for the government; for parliament; for police and criminal investigators; for the ministry of health; for the Ministry of Justice and Constitutional Affairs; the judiciary; prisons and the international community.

For full research report see:

<http://www.amnesty.org/en/news-and-updates/report/victims-rape-and-sexual-violence-denied-justice-uganda-2010-04-06>

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***Dossier on Experiences of Nigerian Women Trafficked and Sexually Exploited in Libya before their Arrival in Italy/Europe***

**BE FREE Social Cooperative EWL Italian Coordinament Member of the Italian coordination of the European Women's Lobby (LEF Italia)**

This dossier outlines patterns of the trafficking of Nigerian women through Libya and within Italy. The report identifies how women are identified by traffickers and forced into prostitution to repay their debts. The dossier highlights the organisation behind the trafficking of women and the roles of transit houses, intermediaries and drivers to transport the women from the Niger Delta through Libya and by boat to Italy. The report highlights key journeys and locations where women are recruited and tactics of the traffickers.

For dossier see: <http://www.epacvaw.org/spip.php?article499>

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***UNHCR Guidance Note on Refugee Claims Relating to Victims of Organized Gangs***

UNHCR has issued a Guidance Note on Refugee Claims Relating to Victims of Organized Gangs (March 2010), which examines "whether victims of criminal gangs or activities associated with those groups may be considered in need of international protection under the 1951 Convention relating to the Status of Refugees and its 1967 Protocol and, if so, under what circumstances."

For full article see: <http://fm-cab.blogspot.com/2010/04/gang-related-asylum-claims.html>

For full Guidance Note see: <http://www.unhcr.org/refworld/docid/4bb21fa02.html>

## UK Training and Events

The following full-day training courses are offered by the Rights of Women.

### **No recourse? EEA national? Overcoming the barriers - 12 May, Manchester, GMCVO**

Meeting the needs of women who have no recourse to public funds, or who are EEA nationals, is incredibly challenging. You have to be able to keep-to-date with one of the most frequently changing areas of law, understand the duties of local authorities and the rights that the woman herself has to pursue justice in the criminal, family or immigration systems. This one day course will give you the skills and knowledge you need to support women who have experienced domestic violence and who has an insecure immigration status with confidence.

### **Seeking Refuge? Claiming asylum and accessing financial support - 23 June, London, NCVO**

Asylum-seeking women are some of the most marginalised and vulnerable women in our society. Caught up in a system that appears incomprehensible, they remain invisible to many service providers. This one day course, co-trained with the [Asylum Support Appeals Project](#) (ASAP), is a practical and comprehensive guide to the law that determines who is entitled to protection in the UK and what financial support asylum seekers and refused asylum seekers can receive.

Each participant for both events will receive a copy of '[Seeking Refuge? A handbook for asylum-seeking women](#)'.

The following courses by Rights of Women are free:

**Forced marriage: gaining protection through the law** - Leeds – 29 April - ½ day afternoon

**No recourse? EEA national? Overcoming the barriers** - Manchester – 12 May – 1 day

**Protecting children from domestic violence: children and the law** - Cardiff – 19 May – 1 day

**Breaking the cycle: using civil and criminal remedies to protect women from violence**  
Cardiff – 20 May – 1 day

**Protecting children from domestic violence: children and the law** - Manchester - 26 May – 1 day

**Breaking the cycle: using civil and criminal remedies to protect women from violence**  
Manchester - 27 May – 1 day

**Stop the traffic: protecting and supporting trafficked women in the UK - in partnership with the Poppy Project** - Sheffield – 7 July – 1 day

Rights of Women also offer the following courses in London at a discount:

### **Seeking Refuge? Claiming asylum and accessing financial support – in partnership with the Asylum Support Appeals Project**

London - 23 June – 1 day

Refugee Community Organisations: **Free**

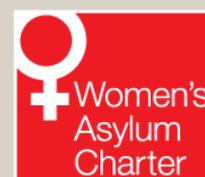
Small voluntary sector Org (income less than £500,000): was £100 **NOW £59**

Larger voluntary sector org (income more than £500,000): was £130 **NOW £79**

Statutory sector/all others: was £160 **NOW £99**

For further information, prices and booking details for either course please email: [training@row.org.uk](mailto:training@row.org.uk) or tel.: 020 7251 6575.

## *Charter of rights of women seeking asylum*



**Endorsements: 207**

**Google group membership: 116**

### **TUC Women's Conference joins the call for a Gender Sensitive Asylum System**

The following motion, proposed by the Prison Officers Association, was agreed unanimously by the TUC Women's Conference on 11<sup>th</sup> March 2010:

#### **GENDER SENSITIVE ASYLUM SYSTEM**

Conference expresses concern that women held in detention centres seeking asylum in the UK are not given the same consideration as women held in prison.

Many of these women have been abused, tortured or raped in their own country. Whilst they wait for their application for asylum to be considered they may find themselves the only female detainee surrounded by 100 or more men.

With such a disproportionate number of males to females, women can feel intimidated, scared and isolated. Women would never be placed in a men's prison in this way, so why in a detention centre?

Conference calls on the TUC and the Women's Committee to challenge the UK Border Agency and Immigration Minister to produce a genuinely gender sensitive asylum system. Therefore, to ensure that women seeking asylum receive a comparable standard of treatment to women in similar situations.

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The Women's Asylum Charter welcomes the Committee's decision and we hope to work closely with them on this matter in the coming months. It is very encouraging to see the recommendations laid out in the *Charter* being supported in a wider context.

Find more information on the TUC Women's Conference [here](#).

For more information on the Charter and the Every Single Woman campaign, please go to [www.asylumaid.org.uk/charter](http://www.asylumaid.org.uk/charter)

If your organisation would like to endorse the charter, please send an email simply stating the name of your organisation to [charter@asylumaid.org.uk](mailto:charter@asylumaid.org.uk)

## Donations to Asylum Aid

Asylum Aid provides free legal advice and representation to asylum-seekers and refugees, and campaigns for their rights. We rely on the generosity of individuals to help us continue our work. Your support would be greatly appreciated. A gift of just £5 each month could support our free legal advice line.

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To support Asylum Aid's work, please complete and return this form to: Asylum Aid, Club Union House, 253-254 Upper Street, London, N1 1RY

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