Refugee Council briefing



The experiences of refugee women in the UK

March 2012

1. About the Refugee Council

The Refugee Council is a human rights charity, independent of government, working to ensure refugees are given the protection that they need, are treated with the respect and understanding that they are entitled to, and that they are assured the same rights, opportunities and responsibilities as other members of society.

The Refugee Council provides specialised services for refugee women in the UK, in recognition of their needs and experiences.¹ These services include the Powerful Women's Project, the provision of pragmatic holistic therapy to refugee women who have experienced sexual violence.

The Refugee Council is an active partner in the <u>Charter of rights of women seeking asylum</u> coordinated by Asylum Aid.

2. Refugee women's experiences of violence

One third of people applying for asylum in the UK each year are women. This proportion has remained constant since 2003. In 2010, 5,329 women claimed asylum in their own right compared to 12,571 men.²

The UN has acknowledged that refugee women are more affected by violence than any other women's population in the world.³ This results from the multiple situations of vulnerability in which refugee women find themselves.

Sexual violence is used as a weapon of war in conflicts across the globe. Up to 500,000 women were raped in Rwanda during the genocide. The New York Times described the Sudanese government turning the whole of Darfur into a rape camp. In some regions of Eastern Democratic Republic of Congo (DRC), as many as 70 per cent of girls and women have been raped or sexually mutilated.⁴

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 safety. Research shows cases of women being raped by smugglers, or forced to 'exchange' sex for passage to safety to the UK.⁵

⁴Refugee Council (2009) *The Vulnerable Women's Project: Refugee and asylum seeking women affected by rape or sexual violence; a literature review* **Page 1 of 6**



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¹ The use of 'Refugee women' in this policy briefing refers to women and girls who have sought asylum and whose claims are undecided or have been refused, as well as those who have already been successful in their asylum claims and granted refugee status, humanitarian protection, indefinite or discretionary leave to remain, unless otherwise specifically indicated.

² Home Office, Immigration Statistics, April to June 2011: Asylum, Table as 03: Asylum applications from main applicants by age, sex and country of nationality.

³ UNHCR Deputy High Commissioner L. Craig Johnstone, reported in *UNHCR backs 16 days of opposition to violence against women* press release, UNHCR 25 November 2008 available at http://www.unhcr.org. The Advocates for Human Rights Stop Violence Against Women website give additional evidence for the heightened levels of violence against refugee women as sited by the UN, UNHCR, Human Rights Watch, and World Health Organisation see http://www.stopvaw.org/Sexual Assault Against Refugees.html.

As a result, a significant proportion of refugee women living in the UK have experienced violence, including rape or sexual violence prior to arrival and they remain vulnerable to violence in the UK, their country of asylum. Of the 54 women we worked with between September 2010 and September 2011 as part of the Powerful Women's Project:

- More than 70% had experienced violence either in their country of origin or in the UK
- 57% had experienced gender based violence in their country of origin
- 44% had been raped
- Just under 30% had been tortured
- 33% had fled ethnic persecution
- Half had mental health needs and over 20% had acute mental health problems
- 33% had been refused asylum
- More than 20% were destitute
- More than 20% had experienced gender based violence since arriving in the UK

The experiences of women we have directly supported inform the following policy recommendations.

3. Priorities for policy change to protect refugee women

3.1 **Poverty**

The vast majority of asylum seekers live in poverty. They are not entitled to ask for permission to work unless they have waited more than 12 months for a decision on their asylum claim, and the delay is through no fault of their own. Nor do they have access to the social welfare system although they can apply for asylum support from the UK Border Agency if they can demonstrate that they are destitute.

Evidence suggests that the current asylum support level is set at a rate too low for asylum seekers to meet their essential living needs. Almost all single adults are only entitled to £36.62 a week, just over £5 a day. Single parents in the asylum system, are entitled to £43.94 a week, just over £6 a day and equivalent to 65 per cent of the financial support received by single parents in the social welfare system.

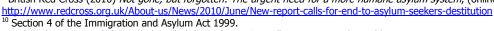
Poverty has specifically been documented as increasing the risk of sexual violence. Research shows that women living on less than £10,000 a year are more than three times as likely to report being raped as women from households with an income of more than £20,000.7

3.2 **Destitution**

The situation is particularly acute for the thousands of asylum seeking women left destitute when their asylum claims are refused. Around 70 per cent of women's asylum claims are rejected, so destitution is a reality for the majority of women who find themselves unable to return to their countries due to fear of persecution and lack of protection.8 A 2010 Red Cross report compares giving food to destitute asylum seekers in the UK to distributing food aid in Sudan, "the humanitarian need is the same".9

The only support available to those whose claims for asylum are refused is known as section 4 support: £35 per week, provided via credit on a payment card known as the Azure card. 10 The Azure card can be used in a limited number of supermarkets only and cannot be used to obtain cash, making it impossible for people to access value for money, purchase food that meets their dietary, cultural or religious needs,

⁹ British Red Cross (2010) *Not gone, but forgotten: The urgent need for a more humane asylum system,* (online)







⁶ Refugee Action (2010) Asylum Support Cuts, (online)

http://www.refugeeaction.org.uk/campaigns/asylumsupport/documents/Asylumsupport RefugeeActionFeb2010.pdf

Refugee Council (2009) The Vulnerable Women's Project: Refugee and asylum seeking women affected by rape or sexual violence; a literature review

⁸ Home Office statistics from 2006-2010, http://www.homeoffice.gov.uk/publications/science-research-statistics/research-statistics/immigrationasylum-research/immigration-brief-q4-2011/asylum

or access vital services without cash for travel or phone calls. ¹¹ Children supported under section 4 receive almost half the amount paid to resident children under Income Support (£62.33).

Heavily pregnant women who have been refused asylum are amongst those at risk of street homelessness and destitution. They are only entitled to section 4 support six weeks before their due date. According to the Home Office, section 4 is intended as a temporary form of support but evidence shows that people can by reliant on it for years.¹²

3.3 Destitution and violence against women

Most refused asylum seekers are not entitled to any form of financial support leaving many women at high risk of destitution and violence. Not allowed to work, they are forced to find other survival strategies like illegal work or begging and are more likely to enter into or remain in exploitative or abusive relationships, engage in transactional sex or resort to prostitution to survive.¹³

We welcome the cross-government strategy to combat violence against women and girls. However, women asylum seekers have limited mention, with only one paragraph that recognises that women may have experienced gender-specific violence and stating that the UK Border Agency is dedicated to being as gender-sensitive as possible throughout the asylum process.¹⁴ The strategy fails to adequately acknowledge that refugee and asylum seeking woman are at particular risk of violence and in need of targeted efforts to reduce their vulnerability and increase their ability to recover successfully from experiences of violence.

Refugee Council believes that 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 in order to survive. Appropriate safeguards must be developed to ensure that women are not forced into living arrangements that make them more vulnerable to sexual violence and exploitation. We believe that it is never acceptable to use women's immigration status as an excuse for failing to address the violence that they experience.

3.4 Access to health services

Refugee women can have complex health needs, arising from trauma and deprivation in their countries of origin, which is then compounded by trauma and deprivation in the UK.¹⁵ High quality and appropriate health services, including psychological support, are essential if women are to be empowered to recover from the devastating impacts that violence, including sexual violence, have on their physical and psychological health.

In 2006, the Refugee Council documented a number of cases of people desperate for help who had been denied access to health care, including pregnant women who were living rough, people with cancer who had been denied treatment, and a woman experiencing abdominal pains and bleeding after being raped. In August 2011, following a review of access to the NHS for foreign nationals in England, free secondary healthcare provision was widened to include refused asylum seekers receiving UKBA section 4 support. This is welcomed but in England and Northern Ireland, refused asylum seekers who are not receiving UKBA financial support continue to be denied free secondary healthcare. This may include pregnant women, families with young children, people with terminal illness and survivors of sexual violence. We continue to work with women who have been refused services that are essential to their recovery from violence.

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¹¹ Reynolds, S. (2010) Your inflexible friend: the cost of living without cash, Asylum Support Partnership (online) http://www.scottishrefugeecouncil.org.uk/assets/0000/0994/Azure Card ReportNov2010.pdf
¹² ibid.

¹³ Crawley, H. et al. (2011) Coping with destitution, survival and livelihood strategies of refused asylum seekers living in the UK, pp. 49, 52.

¹⁴ HM Government (2010) *Call to End Violence Against Women and Girls*, pp. 15-16

¹⁵ Kelley, N. and Stevenson, J. (2006) *First do no harm: denying healthcare to people whose claims have failed*, Refugee Council (online) http://www.refugeecouncil.org.uk/policy/position/2006/healthcare.

¹⁶ibid.

Access to appropriate health services and continuity of care is particularly problematic with regards to pregnant asylum seeking women, including those who have been refused asylum. Whilst NHS maternity treatment in England is classed as immediately necessary and therefore hospitals are obliged to provide care irrespective of ability to pay, women are still liable for charges. Our clients have been pursued for unpaid bills that they cannot afford. Asylum seeking women are seven times more likely to develop complications during pregnancy and childbirth and three times more likely to die than the general population.¹⁷ Black African women who are asylum seekers are estimated to have a mortality rate seven times higher than for White women, partly due to problems in accessing maternal healthcare.¹⁸ Midwives have identified the poverty and destitution experienced by pregnant asylum seeking women as significant barriers to providing effective care, citing that appointments are missed because the women do not have money for transport.¹⁹

3.5 Decision making on asylum claims

It has been established that caseworkers making decisions on asylum claims get it wrong and people with protection needs are refused asylum. A recent study by Asylum Aid found that 50 per cent of initial decisions on women's claims were overturned at the first tier and upper tribunals (i.e. asylum appeals).²⁰

The research found that UKBA case owners failed to understand the nature of violence that women might flee and that this led to case owners doubting the credibility of the claim. The Refugee Convention does not explicitly recognise persecution due to gender as one of the grounds on which an individual can be recognised as a refugee. However an individual can engage the Convention on the ground of membership of a Particular Social Group (PSG). A PSG is defined as "a group of persons who share a common characteristic other than their risk of being persecuted, or who are perceived as a group by society" in the UNHCR guidelines. UKBA ignored PSG entirely in the majority of cases deciding that no Convention ground had been engaged. More than a third of decisions were subsequently overturned on appeal because an immigration judge recognised that asylum should have been granted on the basis that the women belonged to a particular social group.

UKBA's own statistics reflect a problem with decision-making on women's claims, with the overturn rate on initial decisions on women's claims being consistently higher than that of men.²² In 2011, more than 43 per cent of appeals were allowed on women's cases from DRC, as opposed to 26 per cent for men's cases. More than 45 per cent of appeals were allowed on women's cases from Iran, compared to 27 per cent for men's cases.

The Home Office has taken significant steps to improve the asylum determination system, particularly the quality of its decision making, including on women's cases. We also welcome plans to improve the screening process. However, women whose asylum claims have already been refused will not benefit from these improvements.

3.6 The protection gap

The UK government expects people to go back once they have been found not to have individual protection needs in the UK. These are people who may have been let down by the asylum system, or who may have fallen through what is known as the 'protection gap'. Refused asylum seekers who have fallen through the protection gap in the UK include: people who would have to return to areas of armed conflict or endemic violence; people at risk of systematic or generalised human rights violations; groups

²² Home Office statistics from 2006-2010, http://www.homeoffice.gov.uk/publications/science-research-statistics/research-statistics/research-statistics/research-statistics/immigration-asylum-research/immigration-brief-q4-2011/asylum





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¹⁷ Royal College of Obstetricians and Gynaecologists (2008) *The 6th report of the confidential enquiry into maternal deaths in the UK.* Quoted in The health needs of asylum seekers, Faculty for Public Health.

¹⁸ Aspinall, P. and Watters, C. (2010) *Refugees and asylum seekers: A review from an equality and human rights perspective.* Research Report 52. Manchester: Equality and Human Rights Commission.

¹⁹ Helen Beecher Bryant (2012), *Improving care for Refugees and Asylum Seekers; The experience of Midwives*, Maternity Action (online) http://www.maternityaction.org.uk/sitehuildercontent/sitehuilderfiles/experiencesofmidwivesreport2011.ndf

http://www.maternityaction.org.uk/sitebuildercontent/sitebuilderfiles/experiencesofmidwivesreport2011.pdf ²⁰ Asylum Aid (2011) *Unsustainable: The quality of initial decision-making in women's asylum claims*,

²¹ UNHCR, Guidelines on International Protection "Membership of a particular social group" within the context of Article 1A(2) of the 1951 Convention and/or its 1967 Protocol relating to the Status of Refugees (Geneva: UNHCR, 2002), para 11.

that are not being removed because no safe route is available; or people whose countries are so unsafe that UNHCR has advised against any forced return.²³

According to a 2008 Joseph Rowntree Charitable Trust study, 75 per cent of destitute asylum seekers were from Zimbabwe, Sudan, Democratic Republic of Congo, and Eritrea. The report found that conflict or widespread and serious human rights violations in these countries prevented those refused from returning.²⁴ Human Rights Watch have recently documented cases in which people forcibly returned to Sri Lanka have been subjected to torture.²⁵ Over 30 per cent of the women accessing the Powerful Women's Project in 2010/11 were Sri Lankan. Almost all of them had been tortured and raped and just under half had been refused asylum.

On various occasions, the UK government has acknowledged the dangers refused asylum seekers may face on return, and granted people from certain countries exceptional leave to remain (ELR) because of concerns for their safety or on human rights grounds. Despite the government's periodic acknowledgement of the risks facing people in the countries they have fled from, there are currently no policies in place that preclude the enforced return of people to countries where there is ongoing conflict and human rights abuses.

3.7 A gender sensitive asylum determination system

A lack of gender sensitivity in the asylum procedure and evidence assessment of asylum claims has further restricted women's access to protection in the UK. We recognise a number of improvements have been made to improve women's experience of the asylum system. However, women are not always able to access female interviewers and interpreters; they are still wrongly detained during the process; they continue to suffer from decision-makers lacking the skills to assess gender issues and from the poor quality of information used about women's situations in their countries of origin.

The UK's criminal courts have recognised that the trauma of rape can cause feelings of shame and guilt which might inhibit a woman from going to the police. However, an asylum seeker is obliged to immediately tell a stranger, in the form of a UKBA representative, of any violence, including sexual violence that might form the basis of her asylum claim. If she does not, she risks being routed into the detained fast track and / or having her credibility questioned at a later stage.²⁶

The Refugee Council believes that the detained fast track should not be part of the asylum system. As a matter of urgency, it should be suspended for women's claims given the likelihood that they have experienced sexual violence. The asylum procedure and its timescales must be sufficiently flexible in order to enable these women to fully disclose their experiences in support of their asylum claims. The consequences of the failure to do this are severe: women will continue to have their asylum claims wrongly refused resulting in destitution or forced return, leaving them excluded from accessing support services and vulnerable to further violence and exploitation.

Access to appropriate legal advice and representation 3.8

Problems with the quality of decision making on asylum claims are compounded by a lack of high quality legal advice. Without good legal representation, women struggle to get their protection needs recognised and will find themselves at risk of destitution or return.

The Refugee Council believes that women asylum seekers should be able to access women representatives with relevant expertise in gender violence. Further, there is a need for representatives trained specifically in advocating for survivors of sexual violence as establishing trust, along with

deportations-tamils-sri-lanka. 25 February 2012.

26 The Detained Fast Track is an accelerated asylum procedure. An effort is made to decide asylum claims within two weeks and the asylum seeker is detained so that UKBA will have immediate access to the person for quick processing.





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²³ Still Human Still Here (2010) At the end of the line: Restoring the integrity of the UK's asylum system

²⁴ Brown, D. (2008) More destitution in Leeds: Repeat survey of destitute asylum seekers and refugees approaching local agencies for support. York: Joseph Rowntree Trust. p.7

²⁵ Human Rights Watch (2012) UK: Halt Deportations of Tamils to Sri Lanka (online), http://www.hrw.org/news/2012/02/24/uk-halt-

confidentiality, is vital in assuring that these women are able to reveal the complete basis of their asylum claims. Without these, factors such as fear, trauma, or shame may inhibit their ability to express the extent of the violent experiences and persecution they have experienced or fear.

Finding legal representation is increasingly difficult since the closure of Refugee & Migrant Justice in 2010, and the Immigration Advisory Service in 2011. We were unsurprised to see a marked increase in the number of our clients asking for advice on legal help last year. This situation is set to get worse with the proposed cuts in the Legal Aid, Sentencing and Punishment of Offenders Bill, which will further reduce the availability of legal representation for our clients. Although the Bill proposes to retain legal aid funding for asylum cases, the proposal to remove immigration work from the scope of legal aid, will further undermine the availability of legal representation for many people who have been in the asylum system. Some women's cases may on first glance appear to be immigration cases and therefore out of scope for legal aid. Women's cases tend to be more complex and are more likely to need a skilled expert advisor to identify protection needs. Furthermore, proposals to take immigration out of scope for legal aid will seriously impact on the ability of specialists such as those in law centres to provide the necessary advice and representation.

4. Recommendations

4.1 Combating poverty and destitution

- UKBA should increase asylum support rates in line with the Consumer Price Index (CPI) and reestablish the link between annual increments to asylum support and those made to Income Support.
- In order to reduce violence against asylum seeking women, they 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.
- UKBA must address the specific impacts of destitution on women, and take action to prevent it.
 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. Nobody should be made destitute as a result of government policy.

4.2 Ensuring access to health

- All asylum seekers, including those whose claims have been refused, should have access to free NHS
 healthcare on the basis of need across the UK until they are given permission to stay in the UK or
 return to their country of origin.
- 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.
- As a matter of urgency, asylum seeking women, including women whose claims have been refused, should be exempt from charges for NHS maternity treatment.

4.3 Ensuring protection

- UKBA should mainstream gender issues so that they are considered strategically in all aspects of the
 asylum process. This should include reviewing timescales in the asylum procedure to ensure that
 they 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.
- UKBA should cease routing women into detained fast track whilst the risk remains so high that a woman who has experienced sexual violence will have her claim inappropriately dealt with.
- The Government should ensure that the provision of legal aid is adequate and widely available.

For further information, please contact:

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On average the proportion of our clients seeking help on legal advice doubled between 2009 and 2011 (11% up from 5.5% in 2009). British Refugee Council, (commonly called the Refugee Council) is a company limited by guarantee registered in England and Wales, [No 2727514] and a registered charity, [No 1014576].

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