

# women's asylum news

refugee women's resource project @ asylumaid

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## Immigration policy means new infants put in foster care

According to Community Care, a number of newborn babies have been (allegedly) taken into care following the government policy that removes support from mothers who have been refused asylum.<sup>1</sup> Initially the policy only affected single asylum seekers but since December last year it has been extended to families under section 9 of the Asylum and Immigration Act 2004. Now social workers are being forced to remove children from their families on the basis that they are too destitute to look after them.

Community Care's report is based on midwives' testimonies that '*infants are being removed from their mothers because of a policy that means families whose asylum claims are unsuccessful and who do not voluntarily leave the UK within two weeks of the Secretary of State deciding they are able to are denied support.*' The authors further report: '*Community midwife June Walker said that she had worked with a woman whose asylum claim failed and who had her baby, which was born in Lewisham hospital, south east London, removed*

<sup>1</sup> Source: Simon Vevers and Amy Taylor, '*Children taken into care due to asylum policy*', Community Care, 31 March 2005 at [www.communitycare.co.uk/articles/article.asp?liarticleid=48778&liSectionID=22&sKeys=&liParentID=26/](http://www.communitycare.co.uk/articles/article.asp?liarticleid=48778&liSectionID=22&sKeys=&liParentID=26/)

*and placed in foster care after she was found to be living in squalid conditions.'*

The Maternity Alliance also said it knew midwives working with mothers who had their babies taken away at birth and placed in foster care. Ian Johnston, Director of the British Association of Social Workers, said their '*worst fears*' about the policy had been confirmed despite Des Brown's declaration that he was '*satisfied that the purpose of the Immigration and Asylum Act 2004 is not to take children away from their parents.*'

The release of such information coincides with the launch of a new report documenting experiences of destitution amongst people seeking asylum in Scotland. According to a research conducted by the Refugee Survival Trust (RST), which provides help to people seeking asylum left without support in Scotland, 15% of their clients had been made destitute after the implementation of asylum policies such as Section 55.<sup>2</sup>

RWRP vehemently condemns as inhumane and degrading the policy that first renders failed asylum seeking mothers destitute and then takes their new born infants into care. It is likely to cause further unnecessary distress to newborn babies and other infants and their mothers who may already experience isolation and mental health problems (see also new report on mental

health and refugees by The Lancet, 7 April 2005).

How you can help: Barnardos is currently gathering information for a research project on families affected by Section 9 of the Immigration and Asylum Act 2004 and is looking for some case studies that can give a human face to the analysis. If you know families affected by Section 9, please contact Nancy Kelley c/o Lorraine Hart at [lorraine.hart@barnardos.org.uk](mailto:lorraine.hart@barnardos.org.uk).

related news See also *The Times online*, 'Nigerian boy, 2, is split from mother', 27 March 2005 available at: [www.timesonline.co.uk/article/0,,2091-1538675,00.html](http://www.timesonline.co.uk/article/0,,2091-1538675,00.html), on the impact of Irish asylum policies for children of failed asylum seekers who are born in Ireland.

### Other UK News

#### Impact of legal aid cuts on access to justice for women

Women from a wide range of organisations in the voluntary and statutory sectors met for a seminar in March hosted by Rights Of Women (ROW): '*Crisis - What Crisis? The deepening crisis in legal aid and its effect on access to justice for women.*' Emma Scott, ROW's Senior Legal Officer, reported that they have become aware through calls on their advice line that changes to eligibility and financial criteria mean that many women are no longer pursuing their cases or are having to represent themselves - and many solicitors are giving up publicly-funded

<sup>2</sup> Figures recorded between August 2002 and May 2004. The same research finds that administrative errors and procedural delays attributable to NASS or the Home Office accounts for destitution in over 50% of cases. See RST, '*What's Going On?*', 2005 available online at [www.rst.org.uk/](http://www.rst.org.uk/).

work, meaning it is becoming ever more difficult to refer women to someone who can help them.

According to the Family Law Bar Association, the main thrust of the government proposals presented in a paper titled '*A new focus for civil legal aid*' is to remove even more people from eligibility – over 15,000 people per year who were previously eligible will no longer be entitled to free representation. These measures discriminate against women as more women are involved in family law cases which will be greatly affected by the changes. The Society of Labour Lawyers believes that these measures will further reinforce social exclusion.

At the time of the meeting the Government had not yet issued a full response to the consultation process.<sup>3</sup> Preliminary statements had revealed minor concessions but lawyers remained very concerned. Evlynn Gilvarry, Director of Law Reform and Representation at the Law Society highlighted one financial concession in favour of survivors of domestic violence but noted that in general, most problems needing a legal solution are experienced more by women, such as being a single parent, living in rented housing, problems with neighbours, poor medical treatment, living in temporary accommodation and domestic violence. She proposed that the budgets for criminal and civil legal aid should be ring-fenced, as the increase in criminal

spending has depleted the civil budget. She also urged that more access points to the system should be provided in places used by women, such as video booths in supermarkets or GPs' surgeries.

Director of Rights of Women Ranjit Kaur raised her concern that mediation and other forms of alternative dispute resolution (ADR) are being encouraged, pointing out that these methods discriminate against women due to power imbalances between women and men. ROW is still pressing for free legal assistance on domestic violence cases for women across the board, and has noted that the government has still not provided an adequate definition of domestic violence. Pragna Patel from Southall Black Sisters also warned of the dangers of ADR especially for black and ethnic minority women. These proposals only add to pressure on women from inside the communities to use mediation, which is a patriarchal, non-democratic process.

Women attending the meeting came up with many suggestions for campaigning on these issues, and agreed to raise awareness among their own groups. For more information contact ROW at [info@row.org.uk](mailto:info@row.org.uk). ROW has also joined an umbrella group, Access to Justice Alliance, which is calling on the government to safeguard and improve the legal aid system. Contact them at [accesstojustice2005@yahoo.co.uk](mailto:accesstojustice2005@yahoo.co.uk).

ROW run a free legal advice line for women, staffed by qualified female solicitors and barristers, on 020 7251 6577 (telephone) or 020 7490 2562 (textphone). Open Tuesday, Wednesday

<sup>3</sup> This response has now been published: *New Focus for Civil Legal Aid: Consultation Outcomes* at [http://www.legalservices.gov.uk/docs/civil\\_consultations/New\\_Focus\\_civillegalaid\\_Outcomes\\_march05.pdf](http://www.legalservices.gov.uk/docs/civil_consultations/New_Focus_civillegalaid_Outcomes_march05.pdf)

and Thursday 2–4pm and 7–9pm. Also open Friday, 12–2pm. Confidential advice on Divorce and relationship breakdown, Children and contact issues, domestic violence, sexual violence, discrimination, lesbian parenting.

### Asylum seekers without passport jailed

The *Guardian* has reported that more than 230 asylum seekers have been arrested and 134 convicted under a new provision of the Asylum and Immigration Act 2004 which came into force in September 2004.<sup>4</sup> Under the legislation, which was introduced to curb the activities of smugglers who tell asylum seekers to destroy their passports to avoid deportation, those who fail to produce a passport face up to two years in jail. Immigration lawyers points that the legislation is in breach of human rights conventions. Article 31 of the 1951 Refugee Convention, to which the UK government is a signatory, states:

*'(1) The Contracting States shall not impose penalties, on account of their illegal entry or presence, on refugees who, coming directly from a territory where their life or freedom was threatened in the sense of Article 1, enter or are present in their territory without authorization, provided they present themselves without delay to the authorities and show good cause for their illegal entry or presence.'*

<sup>4</sup> The *Guardian Unlimited*, 'Asylum seekers jailed for having no passport', 18 March 2005 at [www.guardian.co.uk/uk\\_news/story/0,,1440456,00.html](http://www.guardian.co.uk/uk_news/story/0,,1440456,00.html).

Yet an increasing number of vulnerable asylum seekers are being criminalized under the legislation. Amongst them, ILPA cited women trafficked for sexual exploitation even though the government had pledged trafficked women would be treated as '*victims rather than criminals*'. Also cited to the *Guardian* were the cases of '*a heavily pregnant asylum seeker, a 19-year-old Chinese woman with a history of severe abuse, a 65-year-old woman who is serving a sentence following conviction, and two Chinese women who claimed to have been tortured*'. There have also been cases tried in youth courts where there was a dispute over the asylum seeker's age.

### Bangladesh inclusion on White list unlawful says High Court

In a High Court decision handed down on Thursday 24th February 2005, Justice Wilson ruled that the Secretary of State's inclusion of Bangladesh in July 2003 on a '*white list*' of countries deemed safe to return people to, was unlawful. Case reference: *Zakir Husan v SSHD*, [2005] EWHC 189 (Admin).

### UK projects

#### Weekly Therapy Group at Hampstead Women's Centre

The Therapy group is for survivors of rape or sexual abuse, no matter when, where, how or by whom the abuse took place. For further information contact 020 7328 7389 or email [whwc@mail.com](mailto:whwc@mail.com).

### Zulm-ke-Khilaaf! Protesting Against Abuse – A Year On...

The Asian Women's Resource Centre's Zulm-ke-Khilaaf Domestic Violence Outreach Support Service is in its second year of supporting women and children from various ethnic minority groups in Brent. In its first year the project was accessed by a total of 137 women and 99 children (38 women and 19 children had initial contact, while 99 women and 80 children have had ongoing support). Users of this service are from the Indian, Pakistani, Afghani, Sri Lankan and Somali communities and several are from the Middle East and North Africa. The service accepts self-referrals as well as referrals from various statutory and voluntary agencies. The service offers an open door policy for all women in need.

Women from ethnic minority groups are not only faced with linguistic barriers when reporting domestic violence but also experience cultural constraints that hold them within abusive relationships. Brent is home to the second largest South Asian community in London. Asian women (as well as women from the Middle East, African nations and Eastern Europe) are under enormous pressure from their own communities to uphold the family honour (*izzat*) and are severely punished for bringing shame (*sharam*) to the family if they speak out against abuse.

The service is delivered with expertise based on an understanding of such cultural constraints in addition to the ability to provide a support service in six Asian community languages. The service

has focussed on a number of provisions including:

- emergency support by prioritising women who are emotionally distressed and those who need immediate referral to a refuge with initial/ongoing support over the phone;
- ongoing advice and support in the form of one-to-one sessions and our support group;
- access to a linguistically appropriate counselling service and multi-lingual publicity in English, Urdu, Hindi, Gujarati, Bengali and Tamil;
- outreach surgeries from several health centres in Brent;
- advocating with other statutory and voluntary organisations on behalf of women and children and in Brent's Domestic Violence Forum.

For further information about this service please contact the Domestic Violence Outreach Worker at 020 8961 6549/5701.

### UK events

#### True Cost of Sexual Violence

This conference on 22 April 2005 is focused on placing sexual violence alongside domestic violence as a problem that impacts upon everyone in society. It is organised by the Lilith Project at the LVSC Resource Centre, Holloway Road, N7 6PA. Speakers from Amnesty International, Women and Girls Network, FORWARD, WOMANKIND and the London Haven Sexual Assault Referral Centres will be discussing the financial, personal and social costs of sexual violence, with a keynote speech

from Richard Chipping of the London Centre for Personal Safety discussing the need for sexual violence advocacy. Cost from £75 for voluntary organisations. Limited funding is also available for small organisations without funds. Download booking forms from [www.lilith.ik.com](http://www.lilith.ik.com) or email:

[Isabel.eden@eaveshousing.co.uk](mailto:Isabel.eden@eaveshousing.co.uk).

### Research seminar

#### **Making Sense of Experience: The Process of Managing Meaning and Coping of Asylum Seekers**

Wednesday, 20 April 2005, 12:00-13:00  
Room: TC1, Beverley Farm (Tizard),  
University of Kent at Canterbury. The  
seminar is open and free to all. See more  
at:

[www.asylumpolicy.info/coping.doc](http://www.asylumpolicy.info/coping.doc).

### **Play about asylum seekers 31 March to 23 April 2005**

F\*\*\*\*\*g Asylum Seekers explores the issue of asylum and immigration by taking the paranoia and fears it awakens to an ultimate absurd, surreal and terrifying conclusion. Tickets: £12 (concs £10) Book now by calling 020 7269 1606 or go online for more information at: [www.cochranetheatre.co.uk/15130.htm](http://www.cochranetheatre.co.uk/15130.htm).

### **Britain in 2005 – Is there any access to justice for asylum seekers and migrants?**

This event on 28 April 2004 is organised in association with Bail for Immigration Detainees (BID) and Asylum Aid who will launch a dossier of evidence based on over 70 submissions collected by the

charities in the last six months about the impact of the legal aid cuts around the country. Since the cuts, many legal practitioners have stopped doing publicly funded work whilst many asylum seekers and migrants are unable to find legal representation. The speakers, Maurice Wren, Coordinator of Asylum Aid and Sarah Cutler, Policy & Research Officer, BID, will consider the next steps in the campaign to reinstate access to justice. The event is open to all to attend in room D302, Clement House, Centre for the Study of Human Rights, LSE, London, from 1.15-2.30pm. See: [www.lse.ac.uk/Depts/human-rights/forthcoming\\_events/Access\\_to\\_justice.htm](http://www.lse.ac.uk/Depts/human-rights/forthcoming_events/Access_to_justice.htm).

### **Initiatives in higher education for refugees and asylum seekers**

This conference organised by HERAN (Higher Education for Refugees and Asylum seekers Network) takes place on Wednesday 11 May 2005 (11.00 – 4.00). For more information or to book a place, please contact Susan Davenport, Refugee Assessment and Guidance Unit, London Metropolitan University [ats.davenport@londonmet.ac.uk](mailto:ats.davenport@londonmet.ac.uk) or phone 020 7133 4051. See more at: [www.asylumpolicy.info/heran.doc](http://www.asylumpolicy.info/heran.doc)

### **ILPA conference on developments in EU asylum and immigration law**

The UK's Immigration Law Practitioner's Association (ILPA) is to organise a conference on 13/14 May titled '*How much freedom, security and justice? Developments in EU Asylum and Immigration Law.*' The conference, organised in association with JUSTICE

and the British Institute for International and Comparative Law, aims at critically examining and assessing the developments and progress made in EU asylum and immigration law and policy since the Tampere European Council. For more information and registration: [www.ilpa.org.uk](http://www.ilpa.org.uk)

### **Help women finding safety in the UK with the Hydro Active Women's Challenge**

Sign up today and help women from around the world find safety from human rights abuses abroad. Join Asylum Aid for the women-only 5km Challenge in Liverpool, London or Birmingham which will be held on Sunday 4th September at 11am. You can run or walk and all money raised will go toward Asylum Aid's Refugee Women's Resource Project, helping women from around the world find safety from human rights abuses abroad.

Registration for the Hydro Active Women's Challenge costs £15. You can nominate that £5 of this fee be allocated to support Asylum Aid (and you will receive a free Asylum Aid T-shirt!). The rest of the fee covers the cost of administering the challenge - this includes providing you with the information you need about the day. We ask that each participant raise £100. Asylum Aid will be in touch to help you with your fundraising by setting you up with an on-line or paper sponsorship form and giving you some tips.

Your support will help to protect women who are fleeing gender-based persecution abroad, such as domestic

violence and FGM. We are aiming to raise £2000 from this event, which could pay for 190 hours of specialist legal advice, so why not encourage your friends to get involved. To find out more about the work of Asylum Aid please visit our website: [www.asylumaid.org.uk](http://www.asylumaid.org.uk).

To sign-up today click on the following link: [www.womenschallenge.co.uk/](http://www.womenschallenge.co.uk/). Places are limited so please sign up now to ensure you don't miss out. Alternatively to receive a form through the post: please reply to [elizabethl@asylumaid.org.uk](mailto:elizabethl@asylumaid.org.uk), including your full postal address and the number of forms you would like to receive.

## International asylum news

### **US Federal Appeals Court recognizes past Female Genital Mutilation as a basis for asylum<sup>5</sup>**

In a landmark ruling, a U.S. federal appeals court recently directed the Board of Immigration Appeals, the administrative appellate body which reviews decisions of immigration judges, to reopen the case of a Somalian woman who had been subjected to female genital mutilation (FGM) as a child, finding that she could be eligible for asylum on the basis of her membership in a social group of Somali females, or young girls in the Benadiri clan.

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<sup>5</sup> This article was been written by Leena Khandwala New Voices Fellow, Center for Gender and Refugee Studies, UC Hastings College of the Law, San Francisco, USA. We are very grateful for her contribution. For further information contact Stephen Knight, Co-ordinating Attorney, Centre for Gender and Refugee Studies at [knights@uchastings.edu](mailto:knights@uchastings.edu).

The case, *Mohammed v. Gonzales*, represents a clear statement by the court that a woman who has undergone FGM could be eligible for asylum, as well as relief under the Convention Against Torture (CAT). Further, the court's acceptance of a primarily gender-defined social group has broader applicability for other gender claims.

Mohammed's asylum claim was based on her childhood experience of being cut, and while under US law, a showing of past persecution entitles an applicant to a rebuttable presumption of a well-founded fear of being persecuted in the future, the government argued that the presumption was rebutted in this case, because a woman who had already been cut did not have a well-founded fear of being persecuted any further on that basis. The court rejected this argument, concluding that FGM is a "*permanent and continuing*" act of persecution, whose life-long adverse effects entitle a person to asylum even after those procedures have been performed.

While past forced abortions and sterilizations have been recognized as ongoing harms that could entitle applicants to asylum, this is the first time that a U.S. federal court has explicitly recognized past FGM as a basis for asylum. Further, the court also noted that since Mohammed had been subjected to a less extreme form of FGM than what is commonly performed in Somalia, she could also demonstrate a well-founded fear of being exposed to further FGM if she was sent back.

Next, the court explored two additional bases for relief. First, it found that Mohammed could be eligible for a

humanitarian grant of asylum, a remedy available in the U.S. for an applicant who shows that the past persecution she endured was so severe that she should not be required to go back even if she no longer has a well-founded of future persecution, or for someone who faces '*other serious harm*' in her home country. It noted that Mohammed could be eligible for a humanitarian grant of asylum under both criteria, because FGM is '*a particularly severe form of past persecution,*' and because Mohammed's tribe has been subjected to extreme violence and the Somalian government has been unable to prevent such abuses, leaving women like Mohammed particularly vulnerable.

Finally, the Court held that Mohammed could also be eligible for CAT relief. It found that FGM could constitute torture within the CAT, and noted that although a showing of past torture does not give rise to a regulatory presumption of a fear of future torture, the fact of her past FGM, combined with evidence of Somalia's abysmal human rights record, could entitle her to such relief.

While the ruling in *Mohammed* represents a significant step towards a fuller recognition of FGM as a form of persecution, the decision also establishes positive precedent for gender-based claims in general. First, the court accepted as valid a gender-defined social group of young girls in the Benadiri clan. It noted that no further defining characteristics, such as opposition to FGM, were necessary, because it is clear that the '*persecution at issue . . . is not a result of a woman's opposition to the practice but rather a result of her sex*

*and her clan membership and/or nationality.'*

In addition, the court held that since the practice of FGM is *'deeply embedded'* in Somalian culture, the social group could be defined as just Somalian females. This ruling is particularly significant because U.S. courts have traditionally been very reluctant to define a social group by gender or gender and ethnicity alone. Finally, in analyzing the nexus to a statutorily protected ground, the court considered the reasons why she had been mutilated, and concluded that *'there is little question that genital mutilation occurs to a particular individual because she is a female. That is, possession of the immutable trait of being female is a motivating factor -- if not a but-for cause -- of the persecution.'* Case Reference: *Mohammed v. Gonzales*, No. 03-70803 (9th Cir. Mar. 10, 2005).

### **Men affected by China's reproductive control laws entitled to asylum says US Appeals Court**

The US Appeals Court has ruled that men whose wives have been forcibly sterilised under China's reproductive control laws are entitled to asylum, as *'involuntary sterilisation irrevocably strips persons of one of the important liberties we possess as humans: our reproductive freedom.'* The wife of the man in question had been sterilized in 1985 after the authorities discovered that she had given birth without permission five years previously. In 2001 he applied for asylum in the US, having arrived in 1997 on a business visa, but his wife is still in China. The ruling, unusual in having a man as its subject in

this area, further adds to a ruling in 1996 according to which up to 1000 people per year, who could prove that China's population policies had coerced them, would be granted refugee status.<sup>6</sup>

### **Detention centre for women draws attention in Greece**

Refugee rights campaigners in Greece are demanding the closure of a detention centre near Athens. The Amygdaleza Centre was originally used as a shelter for female victims of trafficking, but is now used to detain women and children prior to deportation. The conditions at the centre were highlighted in a magazine article which provoked public outrage and demands for the end to arbitrary detention and the immediate release of all child detainees. Greece only granted asylum to eleven people in 2004 and its asylum system has been repeatedly criticised by the UNHCR as not meeting European or international standards.<sup>7</sup>

#### **related news**

See also the UNHCR-commissioned document, *'Asylum seeking single women, women head of families and separated children: Reception practices in Greece'* by Theodora D. Tsovili and Eftihia Voutira available online at: [www.unhcr.ch/cgi-bin/texis/vtx/home/opendoc.pdf?tbl=RESEARCH&id=4235556c2&page=research](http://www.unhcr.ch/cgi-bin/texis/vtx/home/opendoc.pdf?tbl=RESEARCH&id=4235556c2&page=research).

<sup>6</sup> The Guardian, *'Chinese men get US asylum if wife was sterilised'*, 10 March 2003 at [www.guardian.co.uk/usa/story/0,12271,1434336,00.html](http://www.guardian.co.uk/usa/story/0,12271,1434336,00.html).

<sup>7</sup> Institute of Race Relations, *'Greeks demand the end of arbitrary detention and the release of child asylum detainees'*, 2<sup>nd</sup> March 2005 at [www.irr.org.uk/2005/march/ak000009.html](http://www.irr.org.uk/2005/march/ak000009.html).

### Other international news

#### Thailand/Cambodia: Female trafficker sentenced to 50 years

For the first time since they signed a *Memorandum of Understanding on Trafficking* in May 2003, Cambodia and Thailand have successfully joint forces to prosecute a trafficker.<sup>8</sup> In March this year, a Thai Criminal Court has sentenced a Cambodian national to 85 years in prison for procuring under-aged women for prostitution, although she will only serve 50 years according to article 91(3) of Thai Criminal Procedure.

The prosecution was based on the testimony of eight Cambodians who had left their villages for what they believed was work as food and clothes sellers in Bangkok. Instead they were sold to a Malaysian brothel before being later detained as illegal migrants for three months by the Malaysian authorities. Some were identified as trafficking victims and repatriated to their country by the International Organisation for Migration but others were re-trafficked into Thailand. According to the UN Inter-Agency Project on Human Trafficking, there was *'a long process of escape, re-victimization, and rescue'*, before the women appeared in court to testify against their trafficker.

UNIAP is said to have played a central role in order to bring together the Royal Thai Police, Cambodian and Thai NGOs, several government officials and civil

<sup>8</sup> HumanTrafficking.org, 'Ms Kun Thea sentenced to 50 years according to Thai Criminal Code', [www.humantrafficking.org/countries/eap/thailand/new\\_s/2005\\_03/trafficker\\_sentenced.html](http://www.humantrafficking.org/countries/eap/thailand/new_s/2005_03/trafficker_sentenced.html).

servants, the victims, and finally the successful prosecution.

#### related news First trafficking prosecution case in Canada

A man in Vancouver faces several charges of human trafficking in the first such prosecution since Canada's Immigration and Refugee Protection Act became law three years ago.<sup>9</sup> The maximum penalty is life imprisonment and a \$1 million dollar fine. In the state of Alaska, USA, a Representative is proposing a bill to make it an *'unclassified felony to force a person into servitude fro sex or labor, punishable by up to 99 years in prison and a maximum fine of \$500,000.'*<sup>10</sup>

#### Attitude change needed in Israel as most convicted traffickers walk free

The Israeli parliament has been presented with a report describing the plight of the 3 – 5,000 women who are trafficked into Israel every year and sold into the sex trade. The women are sold at public auction for up to \$10,000 and forced to work up to 18 hours a day, only keeping 3 per cent of their earnings. Many are raped and beaten as they are brought into the country, mainly from the former Soviet Republics.

The latest inquiry was initiated by the opposition Yahad Party, which wants

<sup>9</sup> CBS News, *'First human trafficking charges laid'*, 13 April 2005, story circulated by [CCRLIST@YORKU.CA](mailto:CCRLIST@YORKU.CA).

<sup>10</sup> Human trafficking.org, *'US Justice Department encourages states to increase prosecutions by passing state anti-trafficking legislation: Focus on Alaska'*, March 2005 available at [http://humantrafficking.org/countries/eap/united\\_states/news/2005\\_03/alaska\\_legislation.html](http://humantrafficking.org/countries/eap/united_states/news/2005_03/alaska_legislation.html).

sentences increased for traffickers to a minimum of 16 years. Currently judges often pass light sentences that may only be community service. A spokesperson for the party called for attitude change among the public and the police. The United Nations Human Rights Committee drew attention to this issue in 1998, followed by Amnesty International in 2000. Following this, also in 2000, the Israeli Justice Minister promised to set up mechanisms to deal with the problem within a year.<sup>11</sup>

### **Pakistan: Gang-rape perpetrators acquitted**

A woman who was gang-raped in 2002 on the orders of village elders as a punishment for her brother's alleged affair has seen the convictions of her rapists overturned. The six perpetrators had been sentenced to death in this high-profile case which has received much international attention. Five were acquitted and one had his sentence commuted to life imprisonment. Ms Mukhtaran Bibi (also known as Mukhtar Mai) has become a symbol for women's rights and received awards for standing up to the system in which women are punished supposedly to preserve the honour of the family. She has been under police protection since receiving death threats. The high court judge cited flaws in the prosecution case. Bibi's lawyers and campaigners are outraged and is appealing to the Supreme Court.

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<sup>11</sup> BBC News, 'Israel women trafficking soars', 24 March 2005 at [http://news.bbc.co.uk/1/hi/world/middle\\_east/4380067.stm](http://news.bbc.co.uk/1/hi/world/middle_east/4380067.stm).

The Pakistan government is also to appeal the judge's decision.<sup>12</sup>

Meanwhile on 1<sup>st</sup> March, the Pakistan parliament rejected a bill which sought to strengthen the law against the practice of 'honour killing.' The bill was rejected by a majority vote after the government allied with Islamists and the bill was declared 'un-Islamic'.<sup>13</sup>

In Islamabad and Karachi, women's rights activists and lawyers are calling for the repeal of the 'Hudood Ordinances', which stem from Islamic law, and stipulate severe punishments for 'hudood' offences ranging from adultery and premarital sex to alcohol consumption. Women are disproportionately affected by the ordinances, which have been highlighted as the root of human rights violations internationally. As an example, a major abuse of women's rights occurs under the ordinances when a woman complains of rape and she is often herself charged with extra-marital sex.<sup>14</sup>

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<sup>12</sup> BBC News, 'Pakistan queries rape acquittals', 6 March 2005, at [http://news.bbc.co.uk/1/hi/world/south\\_asia/4323801.stm](http://news.bbc.co.uk/1/hi/world/south_asia/4323801.stm) and the Guardian, [www.guardian.co.uk/international/story/0,,1430203,00.html](http://www.guardian.co.uk/international/story/0,,1430203,00.html).

<sup>13</sup> BBC News, 'Pakistan rejects pro-women bill', 2nd March 2005 at [http://news.bbc.co.uk/2/hi/south\\_asia/4311055.stm](http://news.bbc.co.uk/2/hi/south_asia/4311055.stm).

<sup>14</sup> For further information, see Women Living Under Muslim Laws, Pakistan: Pakistani religious law challenged, 4 March 2005 at [http://wluml.org/english/newsfulltxt.shtml?cmd\[157\]=x-157-142764](http://wluml.org/english/newsfulltxt.shtml?cmd[157]=x-157-142764).

### related news **New legislations to ban dance and music in Pakistan's NWFP**

The MMA, the ruling party which governs Pakistan's North West Frontier Province, has presented a bill to parliament that seeks to ban dance, music and women's photography. The MMA believes such activities are not compatible with Islam. Their proposals are contested by opposition party the Awami National Party, who claims that the MMA is leading the province towards 'talibanisation'.<sup>15</sup>

### **Indonesia: Proposals to criminalise adulterers and unmarried couples**

The Indonesian parliament is considering a new draft penal code which contains articles on morality which would criminalize adulterers, cohabiting unmarried couples and those who kiss in public. Indonesia has the world's largest Muslim population and is updating its penal code which is currently based on that inherited under the former Dutch rule. Some activists and legal experts are unhappy with the proposed changes – the Justice Minister has however commented that prosecutions would only take place if neighbours or those nearby complained about the behaviour.<sup>16</sup>

<sup>15</sup> Women Living Under Muslim Laws, 24/2/05, Pakistan: MMA to ban women's photography, dance and music.

<sup>16</sup> BBC News, 'Indonesia plans new morality laws', 6 February 2005.

### **Uganda: Bill on women's rights raises opposition**

The Ugandan parliament is currently debating the new '*Domestic Relations*' Bill, one of whose central aims is to protect women's rights. Proposals include an ending of cultural practices such as wife inheritance and the paying of a bride price, improved rights for women in inheritance, and requiring a husband to seek his wife's permission before taking a second wife. However some of the country's Muslims, who number more than 10% of the population, are protesting against the bill saying that proposals run counter to the Qur'an and therefore contravene Islamic law. More than 1000 people, including women, demonstrated against the bill at the end of March in Kampala. Muslim leaders are calling for the law to exempt Muslims. However, for some campaigners the bill does not go far enough as marital rape is still not explicitly outlawed.<sup>17</sup>

### **Afghanistan: 80% of marriages conducted without consent**

The United Nations news agency has again highlighted the problem of forced and early marriage in Afghanistan. Approximately 57 percent of Afghan girls get married before the age of 16, according to the women's ministry and women's NGOs, although the legal age for marriage is 16 for females and 18 for males. Forced marriages are performed for many different reasons, including giving a woman in marriage as repayment for a debt, or to resolve a feud. The Afghan Independent Human

<sup>17</sup> BBC News, 'Ugandan "polygamy" bill protest', 29 March 2005 at <http://news.bbc.co.uk/1/hi/world/africa/4391067.stm>.

Rights Commission (AIHRC) estimates that up to 80 percent of all marriages in Afghanistan are conducted without the consent of the parties involved.<sup>18</sup>

### related news **One woman dies every 20 minutes in Afghanistan due to pregnancy and childbirth complications**

Health minister, Dr Sayed Mohammad Amin Fatimi, estimates that around 700 children under the age of five die every day in Afghanistan due to preventable diseases and one woman dies every 20 minutes due to complications in pregnancy and childbirth.<sup>19</sup>

### **Saudi Arabia: 105 men sentenced to flogging and imprisonment for homosexual conduct**

The men were sentenced to periods of imprisonment ranging from six months to two years after unfair trials took place at the end of March 2005 where defence attorneys were excluded.<sup>20</sup> The trials and sentences demonstrate Saudi Arabia's contempt 'for the basic rights to privacy, fair trials and freedom from torture', Human Rights Watch and the International Commission of Jurists said in a joint declaration. According to a newspaper the men had been holding a 'gay wedding' when they were arrested. Under Shari'a law in Saudi Arabia, 'deviant sexual behaviour' is punishable

<sup>18</sup> IRIN, 'Afghanistan: Law on forced marriages still widely flouted', 16 March 2005.

<sup>19</sup> Source : IRIN-Asia Weekly Round-up 14, 2 - 8 April 2005, 'Country facing health disaster worse than the tsunami.'

<sup>20</sup> Source: Human Rights Watch, 'Men "Behaving like Women" face flogging', 7 April 2005, <http://hrw.org/english/docs/2005/04/07/saudia10434.htm>.

by sentences including imprisonment and flogging.

### **Zimbabwean women beaten up for holding peaceful meeting**

About 1,000 members of the women's organisation Women of Zimbabwe Arise (WOZA) were attacked by riot police when they attempted to gather for a prayer vigil at Africa Unity Square in Harare on election day.<sup>21</sup> WOZA has engaged in several peaceful demonstrations in the last two years against the worsening economic, social and human rights situation in Zimbabwe. The women, some of whom were carrying babies and toddlers, were beaten with batons and made to lie down while the heavily-booted police stomped all over them. More than 200 were arrested, detained overnight and denied access to water, food, toilets or lawyers. Thirty were injured and nine required hospitalization included a grandmother of 74 who gave her testimony to the press.

According to Amnesty International, threats were made that unless they 'confessed' and paid these fines they would be further detained and prosecuted under the repressive Public Order and Security Act (POSA), described by AI as '*a repressive law which violates internationally recognised human rights to freedom of expression, association and assembly guaranteed under the African Charter and International Covenant on Civil and*

<sup>21</sup> Source: 'Riot police attack praying women', in The Zimbabwean online, 8 April 2005, at [www.thezimbabwean.co.uk/8-april-2005/woza.html](http://www.thezimbabwean.co.uk/8-april-2005/woza.html), circulated by [www.asylumpolicy.info](http://www.asylumpolicy.info).

*Political Rights (ICCPR) - to which Zimbabwe is a state party*.<sup>22</sup> It is hard to comprehend how the UK government can continue to return asylum seekers to Zimbabwe in the face of such abuses of basic human rights.

### **Journalist brutally beaten, tortured and raped by Iranian authorities**

It has now been confirmed that Canadian photojournalist Zahra Kazemi who was arrested and held in custody in June 2003 for photographing a demonstration outside a prison in Teheran, had been brutally tortured before dying a few days later of her injuries.<sup>23</sup> She died in a hospital where she had been examined by Dr Shahram Azam who has now sought political asylum in Canada and for the first time revealed the cause of her death.

Dr Azam said her injuries, including a skull fracture, broken fingers, a broken nose bone, missing fingernails, and a burst ear membrane, were the marks of torture, not of injury as claimed by Iranian officials. He also added that his emergency room nurse found severe abdominal and genital bruising that were the result of a savage rape. The Iranian authorities had said that the injuries were incurred from '*fainting and hitting her head*', although an inquiry later found she died of a fractured skull and

<sup>22</sup> Amnesty International, 1/4/05, News Release, Zimbabwe: More than 250 women arrested - some badly beaten, AFR 46/006/2005

<sup>23</sup> Item circulated by NEWW-POLSKA, newsletter no. 75. Original article: Canadian Press and The Associated Press, 'Kazemi underwent torture and rape', 1st April 2005, at [www.ctv.ca](http://www.ctv.ca) and 'Canada calls for probe of Kazemi "murder"', 6 April 2005, at [www.ctv.ca/servlet/ArticleNews/story/CTVNews/1112723083699\\_109](http://www.ctv.ca/servlet/ArticleNews/story/CTVNews/1112723083699_109).

brain haemorrhage. One man had been charged with '*semi-premeditated murder*' but later acquitted.

Dr Azam said he wanted to tell his story to a public hearing so that the true nature of the Iranian regime would come out. Kazemi's son wants the case to be taken to The International Court of Justice in The Hague, Netherlands, whilst Canada has called for an international investigation into the torture and death of Zahra Kazemi in Iran.

### **UN expert condemns violence against women as cause of HIV spread**

A new report by Yakin Ertürk, Special Rapporteur on violence against women, its causes and consequences, said the number of women living with HIV had increased all over the world whilst women's vulnerability to the pandemic remained largely rooted in pervasive gender inequality and discrimination, often manifested in multiple forms of violence.<sup>24</sup> The Special Rapporteur presented her report on 6 April to the Commission on Human Rights which heard evidence of the integration of the human rights of women and the gender perspective.

The expert's report indicates how multiple forms of violence against women in times of peace or war – such as marital rape, trafficking or war abuses – and harmful traditional practices such as female genital mutilation, increase

<sup>24</sup> Source: UN News Centre, 'Violence against women is cause and consequence of HIV spread, UN expert says', 7 April 2005, available online at [www.un.org/apps/news/story.asp?NewsID=13900&Cr=hiv&Cr1=aids](http://www.un.org/apps/news/story.asp?NewsID=13900&Cr=hiv&Cr1=aids).

their risk of contracting HIV/AIDS. Other factors such as male infidelity and the refusal of men to use condoms are also prominent in the increase of infections amongst women. Yet the majority of HIV-positive women lack access to effective medical treatment and, in some countries, could be forcibly sterilized, or have their babies taken away. The only way to successfully prevent the pandemic is to address unequal power structures in male-female relationships and adopt gender-sensitive policies, Ms Ertürk added. She spoke specifically about her missions to El Salvador and Guatemala, where she noted impunity for perpetrators of violence against women, and the occupied Palestinian territories and Sudan, where the conflicts had a differential impact on women.

Her report included recommendations in five key areas: ending violence against women; addressing the gender dimensions of HIV/AIDS and associated stigma; ensuring women's equal access to healthcare; empowering women for full enjoyment of all human rights; and promoting a global coalition against HIV/AIDS.

### International actions & events

#### **Celebrating Women Human Rights Champions**

As part of its worldwide campaign against violence against women, Amnesty International has nominated Hawa Aden Mohamed as one of many Women Human Rights Champions. On 8 April 2005, she received the 11th annual Ginetta Sagan Award, awarded for

outstanding contributions to the human rights of women and children, at Amnesty International's Annual General Meeting in Austin, Texas.<sup>25</sup>

Hawa Aden Mohamed is a grassroots activist from Somalia who has led the country's movement to end female genital mutilation. In 1993 she fled to Canada following the outbreak of civil war in Somalia in 1991. However she decided to return to her country in 1996 and within a year establishes the Juba Women's Development Centre in Kismayo, a town destroyed by the civil war and home to thousands of women and children refugees. When the centre was ransacked by warlords three years later, she fled to North-Eastern Somalia where she founded the Galkayo Education Centre for Peace and Development, in Puntland. In addition to its work to end female genital mutilation, the organization runs educational programmes for girls and women.

Along with other female colleagues, Hawa was labelled a traitor to Somali culture and the Islamic religion. Friday sermons have been preached against her and her colleagues in the local mosque and they were attacked several times by angry local residents. But undeterred in March 2004 Hawa helped to mobilize 20,000 women and girls in eight Somali towns in an unprecedented protest against female genital mutilation.

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<sup>25</sup> Article edited from Source: Amnesty International, 'Women Human Rights Champions', <http://women.amnestyusa.org/defenders/hawaaden.asp>.

## Eliminating Demand for Trafficked Women and Girls for All Forms of Exploitation

On 11th March 2005, the 2005 UN Commission on the Status of Women (CSW) adopted by consensus a resolution on Eliminating Demand for Trafficked Women and Girls for All Forms of Exploitation which had been submitted by the United States.<sup>26</sup> The resolution – the first of its kind adopted by the UN – aims to help eliminate the demand for commercial sexual exploitation which is believed to fuel the growth of human trafficking by acknowledging the links between sexual exploitation and the trafficking of women and girls: according to estimates, 75 percent of all victims of human trafficking are trafficked for this form of exploitation (Collecting Data on Human Trafficking, Kristiina Kangaspunta, United Nations Office on Drugs and Crime).

Beyond addressing the root factors, including poverty and gender inequality, reinforcing legislative measures, concluding regional agreements and raising awareness at local level, the UN Commission encourages governments to intensify collaboration with non-governmental organizations to develop and implement comprehensive programmes, including providing shelter and helplines to victims or potential victims of trafficking and for effective counselling, training and social and economic reintegration into society of victims.

<sup>26</sup> Source: US Department of State, 'UN Commission on the Status of Women Adopts U.S. Human Trafficking Resolution', 18 March 2005, [www.state.gov/g/tip/rls/fs/2005/43630.htm](http://www.state.gov/g/tip/rls/fs/2005/43630.htm), information circulated by Human Trafficking at [www.humantrafficking.org](http://www.humantrafficking.org).

It also encourages the business sector, in particular the tourism industry and internet providers, to develop or adhere to codes of conduct with a view to preventing trafficking in persons and protecting the victims of such traffic, especially for commercial sexual exploitation, and promoting their rights, dignity and security, including through collaboration with governmental and non-governmental organizations.

**related information** UNHCR Handbook to combat trafficking, see 'online resources\_international' section.

## new publications

international

### Chad camps: no protection from sexual assault for Darfur women

Two new reports by the Holland office of Médecins Sans Frontières (MSF, 7 March 2005) and Human Rights Watch (HRW, 12 April 2005) reveal a continuous high incidence of rape and sexual assault experienced by women affected by the conflict in Darfur, Sudan.

Both organisations talked to many survivors who said that they had been sexually assaulted by members of the militias or civilians whilst collecting water, fuel or animal fodder outside the relative safety of refugee or displaced camps or their own villages, or when going to the market to sell these goods. These tasks are traditionally assigned to women.

Between October 2004 and mid-February 2005, MSF doctors in South and West Darfur treated almost 500 women and girls who had been raped.<sup>27</sup> The organisation believes this is only a fraction of the total number of victims as many women are reluctant to report the crime or seek treatment. Over a quarter who received treatment said they had been raped more than once, either by single or multiple assailants. The majority said they had also been *'beaten with sticks, whips or axes before, during or after the act of rape. Some of the raped women were visibly pregnant, as much as five to eight months, at the time of the assault.'*

The briefing paper by HRW<sup>28</sup> is based on two research missions in February during which they visited nine of eleven refugee camps in Chad and six displaced persons camps as well as other sites in South Darfur.

Whilst collecting firewood outside the camps, 10 women interviewed by HRW said they had been arrested and imprisoned by the Chadian authorities in January, only to be raped by inmates in jail. HRW further reports that in some of the camps, *'police and male residents have coerced women and girls to provide "sexual services" in exchange for "protection"'*. Meanwhile, the human

rights organisation also reports how the Sudanese authorities in West Darfur detained pregnant girls and women – many of whom had become pregnant as a result of rape – and threatened them with charges of *'fornication'* unless they paid a fine.

HRW calls on Western donors and agencies to urgently set up programmes to protect women and girls from sexual violence and address the needs of those who have been assaulted. HRW found that in February, only one in six international agencies providing health services in the camps had a protocol for rape including emergency contraception provision, comprehensive treatment of sexually transmissible disease and post-exposure HIV/AIDS prophylaxis. The 18-page briefing paper is available at <http://hrw.org/backgrounder/africa/darfur0505/darfur0405.pdf>.

**related information** Amnesty International and *Marie Claire* magazine have launched a campaign against the systematic rape of Sudanese women by Janjaweed militia as part of a deliberate policy of ethnic cleansing and genocide against Black Sudanese. For more, go to: <http://women.amnestyusa.org/images/mcx0105FE Sudan.pdf>.

### **New report uncovers crimes against humanity against Anuak in Ethiopia**

The Ethiopian military has committed widespread murder, rape and torture against the Anuak population in the remote south western region of Gambella since December 2003, Human

<sup>27</sup> Médecins Sans Frontières, *'Rape and Sexual violence ongoing in Darfur, Sudan'*, 7 March 2005, at [www.msf.org/countries/page.cfm?articleid=87E5F426-8A66-407E-B6E33C9E577F54CF](http://www.msf.org/countries/page.cfm?articleid=87E5F426-8A66-407E-B6E33C9E577F54CF). MSF 8 page report entitled *'The Crushing Burden of Rape: Sexual Violence in Darfur'* is available online at: [www.artsenzondergrenzen.nl/usermedia/files/Report%20Sexual%20Violence%20march%202005.pdf](http://www.artsenzondergrenzen.nl/usermedia/files/Report%20Sexual%20Violence%20march%202005.pdf).

<sup>28</sup> Human Rights Watch, *'Darfur Women Raped Even After Seeking Refuge'*, 12 April 2005 at <http://hrw.org/backgrounder/africa/darfur0505/>.

Rights Watch said in a 64-page report released at the end of March and entitled '*Targeting the Anuak: Human Rights Violations and Crimes against Humanity in Ethiopia's Gambella Region.*' According to the organisation the abuses detailed in the report could amount to crimes against humanity. For information see <http://hrw.org/english/docs/2005/03/24/ethiop10363.htm>.

**'The deportation machine: Europe, asylum and human rights'** by Liz Fekete (Institute of Race Relations, Citing over 200 detailed case studies, the report shows how opportunist political campaigning puts the lives of asylum seekers at risk: [www.irr.org.uk/2005/april/ha000011.html](http://www.irr.org.uk/2005/april/ha000011.html).

### new publications

UK

#### Making the Right Decision on Asylum claims?

This report by UNHCR is based on a 10-month survey of decision-making by the UK Home Office on asylum claims conducted between March 2004 and January 2005. The findings of the survey reveal '*instances of claims for asylum, both well founded and ill founded, which had been subjected to flawed procedures, such as unsustainable reasoning; misapplications of the law, failure to refer to country of origin information (CIO); misapplication of COI and failure to consider obvious European Convention on Human Rights issues.*' UNHCR also adds that many of these claims will come before the Immigration Appellate Authority, thus

wasting valuable public resources. For a copy of key observations and recommendations, go to: [www.unhcr.org.uk/pdfs/QI Key Observations and Recommendations March 2005.DOC](http://www.unhcr.org.uk/pdfs/QI_Key_Observations_and_Recommendations_March_2005.DOC).

### online resources

international

#### Handbook to help end trafficking

A new handbook by the Inter-Parliamentary Union and UNICEF (The United Nations Children's Fund) addresses some of the key measures that parliamentarians can take to end child trafficking.<sup>29</sup> UNICEF believes that lawmakers are uniquely placed to have a positive effect on children's lives by creating and enforcing legislation to protect children, by allocating adequate resources from national budgets, and by using the power of parliamentary inquiry to hold governments, industries, and civil society accountable. A copy is available online in PDF at:

[www.unicef.org.uk/press/pdf/child trafficking handbook.pdf](http://www.unicef.org.uk/press/pdf/child_trafficking_handbook.pdf).

### related information

The UNICEF Innocenti Research Centre has produced the Preliminary Research Findings of an Expert Workshop on Child Trafficking in Europe (March 2005). This research looks at the problem of child trafficking in more than 50 countries. Source: Anti-Slavery Trafficking News monthly, April 2005.

Also: '*Poverty and Trafficking in Human Beings, a strategy for Combatting Trafficking in Human Beings Through*

<sup>29</sup> Source: News in Brief from UNICEF UK, April 2005.

*Swedish International Development Cooperation*, 10 Guidelines in Brief to Combat Trafficking in Human Beings by Swedish Ministry of Foreign Affairs. Available on Libertad Latina Website at [http://www.libertadlatina.org/Eur\\_Sweden\\_Government\\_Strategies\\_For\\_Combating\\_Global\\_Trafficking\\_03-30-2005.htm](http://www.libertadlatina.org/Eur_Sweden_Government_Strategies_For_Combating_Global_Trafficking_03-30-2005.htm)

### New French website on asylum

AIDA (International Association for Asylum Right) is a new website in French including an extensive database of caselaw and information on asylum rights in France. The site also provides information on 23 countries of origin, as well as an online forum for queries related to asylum seekers and a public notice board for people to share their experiences, whether practitioners or asylum seekers. For more see: [www.droit-asile.org/](http://www.droit-asile.org/).

### online resources

UK

### Making women visible: Strategies for a more woman-centred asylum and refugee support system

This document has emerged out of the work carried out by the Refugee Council's Women's Network to develop a Women's Strategy and Action Plan, detailing how the organisation will work towards ensuring its services are sensitive to the needs of women. It makes recommendations for positive actions. For full text visit online the following link:

[www.refugeecouncil.org.uk/downloads/WomenstrategyMarch2005.pdf](http://www.refugeecouncil.org.uk/downloads/WomenstrategyMarch2005.pdf).

### notice board

#### EXILE: Call for new Trustees

EXILE is looking for Trustees to help develop the services it provides and become more relevant to the lives of refugees and people subjected to immigration controls. Refugees and people seeking asylum are strongly encouraged to apply, especially if you have worked in community organisations and have skills, interests or experience in the following areas:

- The media (national, local and community based), new media (internet, film production, photography and information); or communication technology; as well as:
- Accountancy, advice work, education fundraising, health, law, personnel, social welfare, voluntary work, and setting up new organisations or running projects.

For details of the services provided please visit: [www.exile.org.uk](http://www.exile.org.uk). It is expected that there will be about four meetings per year. You would be both a trustee of a charity (after registration) and a director of a not for profit company limited by guarantee. There is an expectation that trustees will agree with the founding principle that all of EXILE's information services will always be free in perpetuity. If you are interested please email Frank Corrigan via: [frank@exile.org.uk](mailto:frank@exile.org.uk).

Please send any information that you would like to see published in our next edition by 3<sup>rd</sup> June 2005 (see email or postal address on back cover).

# women's asylum news

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