

women's asylum news

refugee women's resource project @ asylumaid

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Please send any information that you would like to see published in our next edition by 12 April 2006 (see email or postal address on back cover).

Forced marriage is a basis for asylum under MSPG, US Court of Appeal says

The Second Circuit Court of Appeal in the USA reversed the decision of a previous immigration panel, the Board of Immigration Appeals (BIA) according to which a woman from China who had been sold into forced marriage *'did not face persecution on account of an immutable characteristic because her situation arose from "a dispute between two families"'*.¹

The BIA further contended that she could have sought protection from the authorities and that she would be able to relocate to another part of China. On this basis it rejected the claim for asylum under the Refugee Convention and the claim for protection against torture under Article 3 of the UN Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT).

19-year-old Hong Ying Gao was sold by her parents to a man whom she was to marry two years later. The family lived in the Fujian province where the practice is common and sanctioned by society and the local authorities. Her parents used the money to pay off past debts.

¹ Source: The Court of Appeal decision on this case was circulated by Dvasylum_yahogroups.com. Reference: *Gao v. Gonzales*, No. 04-1874-ag (2d. Circuit 2006).

However, Gao refused to marry the man when he turned out to be violent and he threatened her with arrest by his uncle, a powerful local official. She escaped to another city. But her family was targeted for retribution and the man eventually tracked her down. Six months later, she fled to the United States out of fear that she would be forced to marry him if she remained in China. Her family continued to be harassed and was forced to move several times.

The Court of Appeal disagreed with the immigration panel in that it found that the appellant Gao had established a nexus between the persecution she feared and the particular social group (PSG) to which she belonged. The Court of Appeal found Gao's social group to be *'women who have been sold into marriage (whether or not that marriage has yet taken place) and who live in a part of China where forced marriages are considered valid and enforceable.'*

It further stated that these common characteristics *'clearly'* satisfy the *Matter of Acosta* test. *Acosta* is a landmark BIA case in the USA but also other international jurisdictions in terms of defining what constitutes a PSG under the Refugee Convention: In *Acosta*, PSG was found to include *'any group, however populous, persecuted because of shared characteristics that are either immutable or fundamental.'*

In addition the Court of Appeal rejected the BIA's finding that Gao had not proved that the government in China would not be able to protect her. The Court of Appeal referred to the State

Department *Country Report on Human Rights Practices in China* (2001) submitted as evidence in the case and according to which: *'trafficking in women, for marriage and prostitution, is widespread [in China], and that official efforts to combat the problem have been hampered by corruption and by active resistance [sic] by village leaders.'* The report also describes widespread domestic violence in China.

Lastly the Court of Appeal considered the issue of internal relocation and again, based on the appellant's accounts of the harassment she and her family suffered even after they relocated, rejected that possibility. It stressed under existing regulations the BIA *'must find not only that Gao could avoid persecution by relocating, but also² that "under all the circumstances it would be reasonable to expect the applicant to do so".³* This includes taking into consideration *'whether the applicant would face other serious harm in the place of suggested relocation; ...administrative, economic, or judicial infrastructure; geographical limitations; and social and cultural constraints, such as age, gender, health, and social and familial ties'.⁴*

The appellant's petition for review was granted and the case remanded to the BIA for further proceedings based on the Court of Appeal's findings. According to the Center for Gender and Refugee Studies, Hastings College of Law (Univ. of California), the decision is *'the first opinion we are aware of addressing the*

² Author's emphasis.

³ Quoted from 8 C.F.R. § 208.13(b)(2)(ii).

⁴ *Ibid.*, § 208.13(b)(3).

issue of forced marriage as a basis for asylum'.

RWRP News

'Hope Betrayed': Joint report released

International Women's Day saw the publication of a joint research report by RWRP and the POPPY Project. The report analysed the asylum claims of women who were trafficked into the UK for sexual exploitation. *'Hope Betrayed: an analysis of women victims of trafficking and their claims for asylum'*⁵ considers all the asylum claims made by women who were supported by the POPPY Project from its inception in March 2003 until August 2005. The findings are surprising.

Of the 32 women who claimed asylum during this period, only 1 was granted asylum prior to appeal. Of those whose appeal had been determined at the time of the analysis, 80 percent were granted either refugee status or humanitarian protection. This is six times higher than the acceptance rate of asylum appeals overall. The report compares reasons for refusal letters and asylum determinations by the adjudicators and immigration judges in the context of key aspects of the Refugee Convention, namely, sufficiency of state protection, convention reason and credibility. It points out the lack of acknowledgement of, or adherence to, the Home Office's gender guidance by its own caseworkers

⁵ By Sarah Richards, Mel Steel and Debora Singer, available electronically only at www.asylumaid.org.uk and www.poppo.uk.com

(see also below). It also notes that the refusal of asylum at the initial stage is particularly serious for women from a 'white list' country, as they have no automatic right of appeal in the UK.

The report suggests a number of potential reasons for the different appeal results. These are identified as referral to the POPPY Project, cooperation with the police & immigration authorities, physical safety, practical support and time for preparation of their case and access to quality free legal representation, poor initial decision making by the Home Office and lack of adherence to its own Gender Guidance.

In conclusion, the report urges the government to put more of its energies into supporting women who have been trafficked into this country by improving their access to the protection available through the asylum determination process.

'Lip service or implementation?'

Report on the Home Office Gender Guidance and women's asylum claims in the UK

The Refugee Women's Resource Project at Asylum Aid launched its latest research on Wednesday 15 March 2006 at the Guardian Newsroom in London.⁶ The guest speaker was Jacqui Hunt, Director of Equality Now. RWRP staff outlined the research and plans for a resulting campaign.

⁶ 'Lip service' or implementation? *The Home Office Gender Guidance and women's asylum claims in the UK* by Sophia Ceneda and Clare Palmer (Asylum Aid, 2006) p 46

The report entitled '*Lip service' or implementation? The Home Office Gender Guidance and women's asylum claims in the UK* by Sophia Ceneda and Clare Palmer (Asylum Aid, 2006) is based on interviews with 17 professionals working in the field of asylum, supplemented by case studies from Asylum Aid's own files. Although a few examples of good practice were identified, the overwhelming impression was one of a lack of awareness of gender issues and of the Home Office own gender guidance not being followed by its decision-makers, despite having adopted this two years ago.⁷

Examples given demonstrated a poor understanding by decision-makers of the Refugee Convention, particularly in relation to women's experiences. There was also a lack of knowledge of women's situation and status in their countries of origin, which was exacerbated by the generally poor quality of country information provided to decision-makers on women's issues.

This lack of adherence to their own guidance by Home Office caseworkers has wide-ranging implications. For example, it was found that a female caseworker is not always provided despite being requested in advance. This means that a woman who has experienced rape or sexual violence may find herself interviewed by a male caseworker and find she cannot disclose this to him. In addition, caseworkers

were found to make assumptions about the situations in women's countries of origin using this to undermine their credibility. As a result of this lack of adherence to the gender guidance, a woman's claim for protection may be dismissed.

At the launch event, RWRP outlined the actions it is planning to follow up these research findings. This is to include influencing not only Home Office officials but also legal representatives and refugee organisations. The campaign will also target asylum-seeking women themselves to make them aware of their rights when they make their asylum claim. The report and an executive summary are available on the Asylum Aid website www.asylumaid.org.uk where follow up campaigning material will also be placed.

Case research support

Our Country Information Officer is available to support women in undertaking their own case research, locating information on human rights conditions in their countries of origin which may help to substantiate their asylum or human rights claim.

If you would like to refer clients to this service, please call Bethany Collier, Country Information Officer on 0207 377 5123 or e-mail:

bethanyc@asylumaid.org.uk

⁷ *Gender Issues In The Asylum Claim: Asylum Policy Instruction*, Home Office, March 2004 .
http://www.ind.homeoffice.gov.uk/ind/en/home/laws_policy/policy_instructions/apis/gender_issues_in_the.html

UK News

UK ratifies UN Protocol on Trafficking but criticised for lack of commitment to protect victims of trafficking

On 9 February 2006 the UK government ratified the *United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organised Crime*, otherwise known as the Palermo Protocol. According to CHASTE (Churches Alert to Sex Trafficking Across Europe), the decision followed the distribution of over 20,000 NOT FOR SALE campaign postcards sent to Members of Parliament and Members of the European Parliament.

Countries which have ratified the Palermo Protocol are required to introduce criminal charges and to consider deterrence measures to combat sex trafficking. They are also required to adopt a range of measures – physical, psychological, legal and social – for the care of victims of trafficking and their

But according to a new report published by the Future Group, a Canadian non-governmental organisation dedicated to combatting human trafficking and the child sex trade, the United Kingdom has *'failed to meet the international standards set in the Trafficking Protocol related to the protection of victims of human trafficking... [and] trafficking victims are dealt with on a case-by-case basis and routinely deported.'* There is

currently no automatic right to obtain short-term residence if a victim assists in a prosecution or otherwise. Longer-term assistance is only provided to those referred to the Poppy Project, a support project for victims of trafficking funded by the Home Office, and who are willing to cooperate with law enforcement authorities. However the Poppy Project does not provide assistance to child victims.

The report, entitled *'Falling Short of the Mark: An International Study on the Treatment of Human Trafficking Victims'* (March 2006), also refers to the Home Office's public consultations on the possibility of creating an automatic reflection period. It also points out that the United Kingdom is not yet a party to the European Trafficking Convention which was drawn up by the 46-member Council of Europe. In particular, it guarantees trafficked people a *'reflection period'* of at least 30 days during which safe housing and emergency medical support is provided; and temporary residence permits for trafficked people who may be in danger if they return to their country, and/or if it is necessary to assist criminal proceedings.

However the British Government is worried that people will claim to be victims of human trafficking when they are not, in order to stay in the UK. But the Future Group highlights that countries that have allowed victims of trafficking to obtain temporary residence have also put in place procedures to prevent the type of abuse the Home Office fears: *'There is no indication that these safeguards have failed, and to the contrary, every indication is that they are succeeding in ensuring only bona*

fide victims receive residence and support.'

Falling Short of the Mark evaluates the record of various developed countries in protecting victims of human trafficking. For a full copy of the report, go to www.thefuturegroup.org/.

related news

New proposal strategy on prostitution in UK

In response to consultation with NGOs, the coordinated strategy for prostitution provides a framework for communities to tackle street prostitution and all forms of commercial sexual exploitation, through preventative measures; tackling demand; developing routes out for those in prostitution; and ensuring justice by cracking down on groomers, traffickers and other abusers. Further information, and hard copies of the strategy, are available by writing to prostitutionreview@homeoffice.gsi.gov.uk. See also online: www.homeoffice.gov.uk/documents/cons-paying-the-price/.

UK projects & events

AFRW's 8th International Women's Day

This event by Action for Refugee Women (AFRW), a network of refugee and women's rights organisations in the UK, is taking place on Tuesday 28 March at Cornway Hall, London WC1. The event will include presentations and workshops on the following:

- Combating Violence Against Women
 - The Needs of Elderly Refugee Women
 - The Needs of Disabled Refugee Women
 - Immigration Practices and their impact on Refugee Women: the Five Year rule, recourse to public funds
 - The Trafficking of Women and Girls
 - Partnership and Networking
- For bookings, please contact Refugee Women's Association at 020 7923 2412 or rwa@refugeewomen.org.uk.

No More Tears Sister: Anatomy of Hope and Betrayal

This documentary film by director Helene Klodawsky (Canada 2004) is showed in the UK as part of Human Rights Watch 2006 International Film Festival.

A story of love, revolution and betrayal, *No More Tears Sister* explores the price of truth in times of war. Set during the violent ethnic conflict that has enveloped Sri Lanka over decades, the film beautifully renders the courageous and vibrant life of renowned human rights activist Dr. Rajani Thiranagama. Wartime mother, university professor, wife, activist, and symbol of hope, Rajani was assassinated at the young age of thirty-five in 1989. Superbly filmed, using rare archival footage and intimate correspondence, the story of Rajani and her family delves into rarely explored themes—revolutionary women and their dangerous pursuit of justice.

The film will be shown on Wednesday, 22 March 19.00, at the Ritzy Cinema and Thursday, 23 March 20.30, ICA, filmmaker and film participants present on both occasion. For details on cinema

location, see Human Rights Watch website at:

http://hrw.org/iff/2006/london/films.html#no_more_tears_sister.

Involving Men in stopping violence against women

Amnesty International UK and WOMANKIND Worldwide are behind this conference entitled *Involving Men* on Saturday 1 April, organised as part of the Stop Violence Against Women campaign. The event will bring guest speakers from organisations that have pioneered work involving men in campaigning, education and action to end the suffering caused by men's violence against women. The conference will explore possibilities for the involvement of men in the UK in action to stop violence against women.

The one day conference will take place at the Human Rights Action Centre, 17-25 New Inn Yard, London EC2A 3EA. Places are limited, so it is essential to RSVP by sending an email to: involvingmen@amnesty.org.uk. Or contact Tom Davies, on 020 7033 1576.

Meeting on Asylum and security

ICAR (Information Centre on Asylum and Refugees), in conjunction with Chatham House and COMPAS at Oxford University, are organising a meeting on 27th March on Asylum and Security. The meeting will be held under Chatham House rules and ICAR would still be interested to hear from those who may wish to contribute in the form of a short presentation around the following areas: the asylum 'condition' from a psychological or mental health

perspective; international refugee law and the relevance of the Refugee Convention today; and the militarisation and criminalisation of forced migration. If you are interested in making a presentation at this event or wish to participate in the discussion, please email Chris McDowell at christopher.mcdowell@city.ac.uk or call 020 7040 4594. For more information, visit www.icar.org.uk/asylumandsecurity.

International news

Rape victims in Sudan look to ICC

According to African women's groups, legal officers in Darfur are automatically reducing women's allegations of rape to assault. Most of the rapes reported are carried out by government Arab militia, the Janjaweed, against black African Muslim women, or Sudanese armed forces. Women who persevere with the charge are told they need to supply four male witnesses to the rape. As a result sexual violence against women in Darfur goes unpunished. African women's groups hope that the International Criminal Court (ICC) at the Hague will be able to bring justice to the women of Darfur.

Although rape survivors can frequently identify their attacker, justice is not forthcoming. There is huge gender-based discrimination within the national law of Sudan. A psychologist at the Amel Centre says that rape is almost impossible to prove in Sudanese law. Most people accused of rape are charged with assault which carries a maximum jail sentence of just one year. A woman

must be able to provide four male witness who saw the actual penetration, even if a woman had two such male witnesses this would not be enough to charge the accused. The IWPR say that women who dare take rape cases to court are frequently arrested and accused of waging war on the government.

The Security Council passed resolution 1593/2005 in March last year, granting the ICC jurisdiction to investigate ongoing atrocities in Darfur. The Court has created a Victims and Witnesses Unit at The Hague to provide protective measures, security arrangements, counselling and other assistance for witnesses and victims. A report by Italian Judge Antonio Cassese, commissioned by UN Secretary General Kofi Annan, is the basis of the ICC's investigation into human rights crimes in the region. The report found that rape was epidemic in Sudan's western province, a semi desert area the size of France.

The mass rape of 400 women in Darfur was described by an international aid worker and reported to the Washington post: *'It's systematic.... Everyone knows how the father carries the lineage in the culture. [The Janjaweed] want more Arab babies [by African women] to take the land. The scary thing is that I don't think we realise the extent of how widespread this is yet.'*

Such reports are corroborated by the independent investigations by FEMNET, the Geneva-based World Organisation Against Torture and the Amel Centre for the Treatment and Rehabilitation of Victims of Torture based in Darfur.

Women and children are particularly vulnerable to rape whenever they step out of the refugee camp for water or firewood. Since the Darfur conflict unfolded in 2003, two million people have been forced to flee their homes and more than 70,000 have been killed.⁸

Child rape in Zimbabwe

According to the Institute of War and Peace Reporting thousands of girls are sexually abused every year in Zimbabwe, particularly in rural areas where society discriminates against females. More than 40,000 cases of rape are reported countrywide every year. However care groups say the real figure is much higher because most go unreported. Eighty percent of cases that are referred to the police are of girls below the age of 16.

Betty Makoni, executive director of the Girl Child Network (GCN), an NGO helping homeless and abused girls, believes that traditional beliefs are fuelling the incidence of rape. Many HIV positive men believe that sexual intercourse with a virgin is a cure for AIDS and this is consistent with the fact that the majority of girls raped fall into the nine to sixteen age range. GCN told IWPR that in 32 of Zimbabwe's 58 districts in which it works, 700 cases of rape of under-sixteen girls are recorded each month. HIV infection among raped girls is widespread. Doctors told IWPR that the effect of the rapes, HIV/AIDS, poverty and lack of antiretroviral drugs would be felt a couple of years down the line: *'We have a generation that is being*

⁸ Institute for War and Peace Reporting, *Women in Darfur look to ICC*, Africa report no. 55 part 2, 28 February 2006.

condemned to die of AIDS because they are being raped and infected daily.'

Recourse to the courts is obstructed by a heavily corrupted police force and judiciary. Makoni gave an example of a man convicted of raping a 10 year old girl who was ordered to either serve a five day prison term or pay a token fine. He chose the latter. Makoni said '*Organisations like ours dealing with rape face threats and victimisation if we try to report cases involving government and party officials. The intimidation is really strong when the cases involve big guys.'*

AIDS orphans in Zimbabwe now number 1.3 million, from a total population of 11.5 million. These orphans are now a particular target for abusers, many end up as street children in cities and towns where they are easy prey to prostitution syndicates and rapacious men. Care organisations predict the catastrophe will only get worse because of a lack of any government initiative to deal with it. Chris Makufa, director of Streets Ahead who work with street children told IWPR: '*Rape, abuse and violence drive the kids on to the street in the first place...But it becomes a vicious circle because on the streets the boys are sodomised and girls are raped again.*'⁹

⁹ Institute of War and Peace Reporting, Scourge of child rape in Zimbabwe, Africa Reports NO. 56, 14 March 2006

Egypt: Women reluctant to report domestic violence

Despite the opening of the first safe house for women in Cairo, many women stay in abusive marriages. The level of social stigma and financial insecurity a woman would face deters women from leaving their husband.

A Cairo NGO, the Association for the Development and Enhancement of Women (ADEW), has collected over 700 case studies over the past few years, indicating that domestic abuse is common in Egypt. A 2001 survey of low income neighbourhoods found that 96% of women had been beaten at least once by their husbands. Violence is often condoned by the family and even by the victims. IRIN reports that the majority of women surveyed in a government study, said a husband had a right to beat his wife if she talked to him disrespectfully, talked to another man, spent too much money or refused her husband sex.

Bahira El-Gohary of ADEW says that police respond to women reporting domestic violence with the attitude that the man has the right to do it. Men convicted of domestic violence face sentences of monetary fines to three years in prison. However, Nihad al-Qumsan, head of the Egyptian Centre for Women's Rights said '*most of the time, judges give low penalties.*'

According to women's groups '*The House of Eve*' opened by ADEW is the first shelter for women escaping domestic violence, either public or private in Egypt. Encouraging women to use the facility has been difficult, the families

and neighbours of women who have left their homes often encourage them to return to their husbands. Women sleeping outside the home and staying away from families is a huge taboo. El-Gohary of ADEW says: *'Most women express their fears about how society would view them and whether it would accept them back.'* According to al-Qumsan women also have concerns about the ability of the shelter to provide for them once they have left their husbands. ADEW's 'House of Eve' hopes to offer women the chance to become more independent, find a job, feed herself and her children and find her own house. The shelter can house about 20 women and their children for up to three months. Upon leaving they are given a small loan as part of a micro credit programme.¹⁰

Georgia: Parliament adopts draft Law on Fight against Trafficking

Tea Metreveli, Informational manager of the Women's Information Center, Tbilissi, reports that the draft law was adopted on 28 February 2006.¹¹ She further specifies: *'This Draft Law aims at developing the legal basis for fight against trafficking in accordance with the general human rights principles in order to prevent the crime of trafficking, protect the victims of trafficking and prosecute the alleged traffickers (holding them criminally liable).'*

She expects Georgia to ratify the Council of Europe Convention on Action against

Trafficking and Palermo Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, supplementing the United Nations Convention against Transnational Organised Crime.

Chile: First female president, survivor of torture, sworn in

Socialist paediatrician Michelle Bachelet, endured prison, torture and exile under Chile's military dictatorship. This month the 54-year-old single mother was sworn in as the nation's first female president and the first woman elected to lead a South American nation. Seen as liberal and progressive by her fellow citizens, she has pledged to appoint women to half the posts in her cabinet.¹²

Bachelet went into exile with her mother in her early twenties when she was a medical student. Both her father and boyfriend were tortured to death. She returned to Chile in 1979 when she worked as a paediatrician, treating children who had been severely abused and traumatised by the military regime. In 2002 then President Ricardo Lagos chose her to be Defence Minister. She subsequently became the country's *'most admired politician'*, respected by both public and military circles.

¹⁰ IRIN News, Egypt: Abused women reluctant to come forward, 16 February 2006

¹¹ Source: POLSKA/NEWW, Newsletter No. 118, at: www.neww.org.pl/en.php/news/news/1.html?&nw=2188&re=1.

¹² Jonathan Franklin, 'Pinochet victim poised to run Chile', *The Observer*, Santiago, 15 January 2006, at <http://observer.guardian.co.uk/world/story/0,,1686657,00.html>.

International events & projects

International Women's Day continues to be celebrated in March

Information on events across the world taking place until the end of March can be found on International Women's Day 2006's website at

www.internationalwomensday.com/event/s/.

'Responding to Refugee Women at Risk - from the Camp to the United Nations'

This course organised by the Forced Migrations and Refugee Studies Program and the American University of Cairo (AUC) will take place from 18-22 June 2006 in Cairo, Egypt.¹³ It explores the concept of *'risk'* refugee women are facing in situations of conflict, during flight and in countries of refuge, in particular gender-based violence such as rape and sexual abuse. The course highlights that *'the impact of each event is compounded by ensuing incidents and by lack of adequate protection, creating extreme levels of risk and vulnerability to further abuse and trauma. Because of resource shortages and lack of effective systems, the international protection system often fails to respond to the needs of these women.'* The course analyses the reasons for such a failure and explores strategies that can be used to address this critical issue, including

¹³ Information edited from correspondence sent by the FMRS program, Oxford University. Full information to be found at: www.aucegypt.edu/academic/FMRS/ShortCourses.htm#summer06.

community development techniques within a human rights framework, national and international advocacy, and using the United Nations systems to address and identify potential solutions.

It will be taught by Dr Eileen Pittaway, Director of the Centre for Refugee Research, University of New South Wales (UNSW), Sydney, who has extensive research expertise on the issue of rape in conflict situations; she is currently working on a research project with refugee women in Kenya on the Thai Burma border focusing on the notion of *'international protection'* in the context of the sexual and gender based violence experienced by refugee women; and Ms Linda Bartolomei, Senior Research Associate in the Centre for Refugee Research, UNSW, currently employed on a three-year longitudinal action-based study into the implementation of the Refugee Women at Risk Program and its effectiveness as a tool of international protection in refugee camps in Kenya, Thailand, and Australia.

Two other courses are run by the same organisers: Meeting the Psychosocial Needs of Refugees (26 June - 1st July, 2006) and International Refugee and Human Rights Law (2-8 July 2006). The tuition fee for each course is US \$100 for international participants and LE 200 for Egyptians and Residents of Egypt. A limited number of tuition waivers are available upon request. For details on application, contact: Ms. Maysa Ayoub, Assistant to Director, tel: (202) 7976626 or email Forced Migration and Refugee Studies at fmrs@aucegypt.edu, or check online:

www.aucegypt.edu/academic/FMRS/ShortCourses.htm

[tCourses.htm#summer06](#). Deadline for applications: 15 May 2006.

First annual international action against immigration detention, April 2006

Organisations and individuals opposed to the detention of refugees and other migrants are invited to participate in a period of actions against immigration detention in countries around the world in April 2006 including the weekend of 15-16 April. The aim of this event is to spread opposition to detention worldwide; create contacts between anti-detention groups in different countries and prepare for future international anti-detention actions in April 2007. This invitation is from a number of organisations in Australia and the UK (including Barbed Wire Britain Network, Campaign to Close Campsfield, London Against Detention and London No Borders). Actions are planned in Sydney, Australia; Harmondsworth, Campsfield and Colnbrook, UK and Germany. For more details, contact one of the following email addresses:

info@barbedwirebritain.org.uk;
refugeeaction@hotmail.com;
info@racnsw.net; rran@arachnet.net.au;
admin@ruralaustraliansforrefugees.org.

new publications

UK

The Silver Throat of the Moon

This book edited by Jennifer Langer includes prose and poetry from writers from Algeria, Zimbabwe, Somalia, Iran, Kurdistan and Afghanistan. It is the third anthology of writing by the writers

in exile published by Five Leaves. It follows *The Bend in the Road* and *Crossing the Border: voices of refugee and exiled women*, which is still available. For a copy (£9.99), contact Five Leaves at info@fiveleaves.co.uk or visit the website www.fiveleaves.co.uk.

new publications

international

Report of the Special Rapporteur on violence against women, its causes and consequences

This is the third report of the Special Rapporteur, Yakin Ertürk, to the Commission on Human Rights 62nd Session. Chapter I summarises the activities of the Special Rapporteur in 2005. Chapter II examines the *due diligence* standard¹⁴ as a tool for the effective implementation of women's human rights, including the right to live a life free from violence. In her report, the Special Rapporteur wrote:

'The failure of international human rights law to adequately reflect and respond to the experiences and needs of women has... resulted in the transformation of the conventional understanding of human rights and the doctrine of State responsibility. ...The application of the due diligence standard, to date, has tended to be State-centric and limited to responding to violence when it occurs, largely neglecting the obligation to

¹⁴ According to the *due diligence* principle, states bear responsibility, under international law, to prevent, investigate and punish violence against women and to ensure that the victims receive adequate remedies and reparation, regardless of whether the act was perpetrated by state agents or a private person.

prevent and compensate the responsibility of non-State actors. ...The potential of the due diligence standard is explored at different levels of intervention [in the report]: individual women, the community, the State and the transnational level. At each level, recommendations for relevant actors are highlighted. The report concludes that if we continue to dare to push the boundaries of due diligence in demanding the full compliance of States with international law, including to address the root causes of violence, against women and to hold non-State actors accountable for their acts of violence, then we will move towards a conception of human rights that meets our aspirations for a just world free of violence.'

Find the full report (Distr. GENERAL E/CN.4/2006/61, 20 January 2006) under:

<http://daccessdds.un.org/doc/UNDOC/G/EN/G06/103/50/PDF/G0610350.pdf>.

related publication

The report of the Special Rapporteur on the sale of children, child prostitution and child pornography, Juan Miguel Petit (Commission on Human Rights 62nd session), focuses on the demand factor in the commercial sexual exploitation of children. The report is based on information received from governments, international and non-governmental organisations and individuals in response to a questionnaire sent jointly with the Special Rapporteur on trafficking in persons, especially women and children. It reflects the responses received from 28 countries.

www.ohchr.org/english/bodies/chr/docs/62chr/ecn4-2006-67.doc.

Mexico: Rape goes unpunished whilst victims denied legal abortion, HRW research reveals

Based on field research in Mexico, including more than one hundred interviews with lawyers, doctors, prosecutors, public officials, rape victims and their families, a new report by Human Rights Watch (March 2006), uncovers the obstacles women victims of sexual and domestic violence have to face when seeking redress and protection. It highlights that '*Mexico's legal framework for the treatment of domestic and sexual violence [including incest and marital rape] in many states is seriously deficient.*'

HRW reports that even when limited protections are available, they are not being implemented. The report outlines in particular the impunity for rape in the justice system. Many rape victims are accused of fabricating the rape and treated '*dismissively and disrespectfully*' by police forces, public prosecutors and health officials. As a consequence less of 10 percent of rape victims are estimated to attempt to seek justice. Many fear retribution from their abuser, especially if he is a family member.

In terms of domestic violence, only seventeen states in Mexico (out of thirty two) sanction '*repeated*' violence in the family whilst in 13 states incest is defined as '*consensual*' sex between parents and children or between siblings. Pregnant victims of incest are by law, denied the right to a legal abortion. As for victims of rape, if they do not report the crime, legal abortion is also ruled

out: All jurisdictions in Mexico treat abortion as a crime. *'The Second Assault Obstructing Access to Legal Abortion After Rape in Mexico'* is online at: <http://hrw.org/reports/2006/mexico0306/>.

Paper on Trafficking and the use of CEDAW

The Gender and Development Section at UNESCAP (United Nations Economic and Social Commission for Asia and the Pacific) has published its Discussion Paper No. 17 *'Violence against and Trafficking in Women as Symptoms of Discrimination: The Potential of CEDAW as an Antidote'*. The paper can be found online at: www.unescap.org/esid/GAD/index.asp.

online resources

international

Paper on Australian jurisprudence and private forms of gender-based persecution

In a paper entitled *'Women – no longer forgotten minority under Australian asylum law'*, Udara Jayasinbge argues that Australian jurisprudence on private forms of sexual and gender-based persecution and the 1951 Refugee Convention is progressive and *'provides a positive example of a flexible interpretation of refugee definition.'* In the paper published by the Global Migration and Gender Network (GMGN),¹⁵ the author states that the Australian courts have recognised claims

of sexual and gender-based persecution under the MSPG ground.

As highlighted by Jayasinbge, whilst it is recognised that gender-based persecution can constitute persecution, the difficulty for asylum applicants is to establish that this form of persecution is for reason of one of the five Refugee Convention grounds. In the past another difficulty in establishing the right for international protection was that gender-based violence is often perpetrated in the private sphere. In fact, some countries still refuse to grant refugee status in such cases as they do not recognise harm by non-state agents as amounting to persecution as they interpret it in the Refugee Convention.

However Australia, since the case of *Khawar* ((2002) 210 CLR [13] per Gleeson CJ), has recognised that persecution by non-state agents falls within the Refugee Convention requirements, when protection from the state is not attainable or available. This approach is in line with UNHCR's position and other international jurisprudences.

Jayasinbge outlines that *'in Australia, the decision of Khawar has determined that 'gender' could be the defining characteristic of a 'particular social group' and where a pattern of discriminatory treatment exists, women in a country could constitute a 'particular social group' for the purposes of the Refugees [sic] Convention.'* According to the author, the courts have adopted a *'social perception'* approach which assesses whether a group shares one or more common characteristics that differentiate it from the rest of society.

¹⁵ See GMGN, Newsletter February 2006, at <http://gender.gcim.org/newsletter/>.

Jayasinbge states that the courts favour the distinction of subsets of social groups having other characteristics than just their gender. Examples of PSGs that were found to fall under the Refugee Convention include '*Sikh women in India*', '*young Somali women fleeing forced marriages*' and '*single Indian women living alone in Fiji*'.

A copy of the paper can be found at: www.gender.gcim.org/mm/File/UJ2.pdf.

New webpage on sexual exploitation of children

UNESCAP (United Nations Economic and Social Commission for Asia and the Pacific) has created a new webpage entitled '*Commercial Sexual Exploitation of Children (CSEC)*' which includes reports and links relating to the subject. See:

www.unescap.org/esid/GAD/Issues/CSEC/index.asp.

online resources

UK

New toolkits to help refugee health professionals

'*Good Practice Toolkit for Work with Refugee Health Professionals*' is now available on the ROSE website. This toolkit is aimed at all those involved in supporting refugee health professionals into employment as well as those interested in doing something to support refugees into employment. See:

www.rose.nhs.uk/site/For_Employers_and_Agencies/Working_with_refugee_health_professionals_toolkit/index.html

Also on the ROSE website is the **Advisors toolkit**, designed by Praxis following consultation with advisors working with refugee health professionals across England. The **Refugee Nurses' Handbook** and the **Refugee Allied Health Professionals and Health Care Scientists Handbook** will also be posted on the ROSE website in the next few weeks.

Women in London's resource to advertise UK events

Women in London public notice board and calendars are available for any organisations that would like to advertise events of interest to women in the UK, including International Women's Day events. Women in London aims to publicise women's groups and their work via the internet. Go to www.womeninlondon.org.uk/ for more details on how to advertise events or just to check events in the UK.

British Red Cross booklet: correction

Last month we mentioned the production of a booklet by the British Red Cross to help destitute asylum seekers. The Red Cross has informed us that this booklet is available in limited numbers at the moment and covers the London area only. They are looking at publishing it later this year. However anyone interested in the booklet should contact the Refugee Unit on 0207 704 5670.

Produced by RWRP (for more information on this issue, please contact Sophia Ceneda)
Asylum Aid, 28 Commercial street
London E1 6LS Tel: 020 7377 5123
Fax: 020 7247 7789
Email: sophiac@asylumaid.org.uk
Website: www.asylumaid.org.uk

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