

The rights of
women seeking
asylum:

a charter

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Women come to the UK to seek protection from a range of human rights abuses abroad. Whilst some of their experiences, such as being detained for their political activities, are the same as men's, some of their experiences are gender specific. Many have suffered, or are at risk of, gender persecution, including rape or sexual violence, honour crimes, forced marriage, domestic violence or female genital mutilation in countries where the state fails to protect them.

In leaving behind everything that is familiar these women show remarkable courage. They deserve to be treated in a way that recognises their particular needs as women and how their asylum claims are affected by their gender.

All asylum seekers have the right to be treated consistently, with fairness, dignity and respect in accordance with the UK's obligations under the international refugee and human rights conventions.

For women, this means:

- 1** *women seeking asylum have the right to have their protection claims determined by an asylum system in the UK that is informed, in all aspects of its policy and operations, by a thorough understanding of the particular forms of persecution and human rights abuses that women experience because of their gender and of their particular needs as women;*
- 2** *women seeking asylum have the right to an asylum determination process that recognises and takes into account their experiences of persecution and human rights abuses;*
- 3** *women seeking asylum have the right to accommodation, support and healthcare appropriate to their particular needs as women;*
- 4** *women seeking asylum have the right to be treated with dignity in a way that is appropriate to their needs as women and that ensures their safety if in detention or during removal.*

Introduction

The principle of the fair and consistent treatment of asylum seekers is enshrined in a range of international human rights mechanisms. Additionally, as a signatory to the UN Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) and a member state of the European Union which has a key objective to ensure equality between women and men (article 2 of the Treaty of the European Union) and to gender mainstream all policies within its competence (article 3), the UK must ensure the practical realisation of the principle of equality of men and women. Under the Human Rights Act the UK has a clear obligation both to respect asylum seekers' human rights and not to discriminate between men and women.¹

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

Ensuring fair treatment for women who are claiming asylum means that the Refugee Convention needs to be interpreted in a gender sensitive way both in how evidence is collected and interpreted and through the procedures that are in place. The incorporation of the Asylum Policy Instruction on *gender issues in the asylum claim* by the Home Office in March 2004 was an extremely positive development. Since then the UK Border Agency (UKBA) has made some further progress but initiatives have tended to be piecemeal suggesting a failure to recognise gender as an underlying factor fundamental to creating a fair system. In addition there is, too often, a disconnection between the policy and the operational parts of the UKBA, particularly on gender issues. To ensure women's rights are recognised it is essential to create a gender-sensitive culture within the UKBA as a whole.

The Gender Equality Duty which came into force in April 2007 requires public authorities to consider whether their policies and services are experienced by women and men in different ways and make adjustments for this. The UKBA's Diversity Equality Scheme and Action Plan first produced in April 2007 to comply with the Gender Equality Duty and to be revised each year has been welcomed. However, to fully comply with the Gender Equality Duty and to ensure that women asylum seekers' needs are met, actions, such as those identified below, should be incorporated when the Diversity Equality Scheme and Action Plan are next revised.

¹ The term women is used to mean women and girls in this charter

With its new status as an executive agency and its new way of working with asylum seekers through the reformed, Case Owner-led, asylum process for new claims, the UKBA can benefit from an approach that embeds a gender perspective into all of its work. Having such a shared understanding of these issues across the agency will ensure a more effective service and a better use of resources.

The signatories to this charter call upon the UKBA to commit to treating women seeking asylum with fairness, dignity and respect, based on a fundamental recognition of their human rights and of their particular experiences of persecution.

The charter sets out a range of actions that the UKBA could take to demonstrate and give practical effect to this commitment. The explanatory notes provide further details. The proposed actions are not exhaustive, but cover all aspects of the end-to-end asylum process and reflect the concerns of the signatories that the present asylum process fails, systematically and repeatedly, to provide protection for women.

The UK Border Agency and the rights of women seeking asylum

1

Women seeking asylum have the right to have their protection claims determined by an asylum system in the UK that is informed, in all aspects of its policy and operations, by a thorough understanding of the particular forms of persecution and human rights abuses that women experience because of their gender and of their particular needs as women

To realise this right, the UKBA should:

- a. *appoint a women's champion from its Senior Management Team*
- b. *establish a gender monitoring group to ensure implementation of relevant policies*
- c. *ensure the role of the Race Monitor, expanded to look at equality issues and placed within the new independent inspectorate, includes gender issues*
- d. *undertake a gender impact assessment on all current and proposed asylum policies and procedures and make any necessary adjustments to address discriminatory or negative impacts on women*
- e. *include the implementation and monitoring of the Asylum Policy Instruction on gender issues in the asylum claim (Gender API) in the Diversity Equality Action Plan (or equivalent)*
- f. *provide appropriate training on a regular basis to ensure that staff understand the reason for initiatives related to women's rights and implement them appropriately*
- g. *promote and demonstrate active commitment to non-discriminatory practice as expressed in its gender policies both internally and externally and work within the European Union to promote good practice to ensure that the EU directives on asylum are interpreted in a gender sensitive way*

2

Women seeking asylum have the right to an asylum determination process that recognises and takes into account their experiences of persecution and human rights abuses

To realise this right, the UKBA should:

- a. *revise the gender API to fully meet women's needs*
- b. *ensure that the full and consistent implementation of the gender API is monitored and regularly reviewed and that a thorough understanding of the gender API becomes a core competency for UKBA Case Owners and a key criterion in their accreditation*
- c. *the detained fast track is incompatible with a gender-sensitive asylum process but whilst it continues, ensure the screening process is sufficiently robust to exclude from the detained fast track those who claim to have experienced gender-based harm and, in line with existing policy, exclude those who are 24 weeks or more pregnant or have serious health issues*
- d. *ensure that those who may have been trafficked into the UK have full and appropriate access to the asylum determination system*
- e. *build on the improvement to country information reports in relation to women and ensure they are used appropriately by Case Owners*

3

Women seeking asylum have the right to accommodation, support and healthcare appropriate to their particular needs as women

To realise this right, the UKBA should:

- a. *develop and implement minimum standard procedures for UKBA accommodation and support providers*
- b. *ensure girls and young women (including those where there is an age dispute) are placed in women only accommodation*
- c. *suspend reporting requirements on women who are pregnant or have babies or young children*
- d. *provide for the particular needs of women on section 4 (hard case) support*
- e. *alleviate the gender impact of policies that lead to destitution*

Women seeking asylum have the right to be treated with dignity in a way that is appropriate to their needs as women and that ensures their safety if in detention or during removal.

To realise this right, the UKBA should:

- a. *prevent women who have suffered gender-based harm from being detained*
- b. *ensure the dignity and safety of women in immigration removal centres*
- c. *take women out of detention immediately if it is discovered that they have experienced gender-based harm*
- d. *not detain women who are breastfeeding or at any stage of pregnancy*
- e. *end the detention of families with children*
- f. *establish a pre-removal risk assessment process ensuring that it is sensitive to the particular needs of women*
- g. *ensure an appropriate gender balance for staff involved in enforcement activity is achieved and that they are appropriately trained and monitored*