

# Women seeking sanctuary: challenging UK state responses to women fleeing conflict violence

**Vicky Canning** argues that the UK state should be held accountable for the double victimisation of vulnerable women seeking asylum.

*To tell someone your reality, to tell someone the truth, it is very hard if you don't have any acceptance, if there is nobody else that believes you, that accepts you, there is nothing that you can do. Like speaking on air, no-one will reply to you like that. Your suffering, your pain, no-one will understand you.*

This statement is an account from an oral history with Hawwi, (a pseudonym chosen by the oral history participant), an Ethiopian woman who survived rape by a smuggling agent whilst fleeing government persecution. What she is describing is her experience of being disbelieved during asylum interviews by the UK Border Agency (UKBA) in Merseyside. Like many women seeking asylum in the UK, Hawwi's application was consistently challenged and incorrectly refused before she was finally granted the refugee status she was entitled to under the 1951 Geneva Convention owing to her subjection to ethnic and political persecution. This article argues that the UKBA perpetrate forms of double victimisation, where women have been subjected to state-sanctioned sexual violence or lack of state protection and prosecution in countries of origin or during migration, and often continue to experience state-sanctioned social

and emotional harm in the UK asylum system.

Thousands of women in the UK asylum system have fled conflict regions where sexual violence is identified as being at epidemic levels, including Democratic Republic of Congo, Sri Lanka, Somalia and Darfur, often as victims of state-sanctioned rape. The impacts of sexual violence are enormously significant, encompassing social, physical and emotional harms with the potential to span the duration of the survivor's life. Furthermore, the use of public and systematic sexual violence in conflict can instigate further social harms for women, leading to social ostracism, shame and stigma, shattering communities and potentially forcing migration.

## **Routinely disbelieved**

Whilst gendered persecution is not recognised as specific grounds for seeking refugee status in the 1951 Geneva Convention, women can apply for protection as a member of a Particular Social Group, which does not specify group status but can encompass women fleeing sexual violence, amongst other social, religious, ethnic and political demographics. In recognition of this, in 2004 the UKBA established *Gender Issues in the Asylum Claim* (renewed in the *New Asylum Model*, 2010) to introduce a gendered

focus when assessing women's claims, particularly in relation to approaching sensitive issues such as rape, sexual violence and domestic abuse. Nonetheless, research on asylum in the UK consistently shows that women are routinely disbelieved, receive little if any sexual violence support and are still expected to disclose instances of sexual violence in the first interview in an official environment with a stranger (Asylum Aid, 2011; Medical Foundation for the Care of Victims of Torture, 2009).

There is significantly more focus on gender issues in contemporary national and international legislation, including Human Rights law, with the most notable being the inclusion of sexual violence as a crime against humanity under UN Security Council 1820 in 2008. As such, under international legislation, militia and military leaders in areas such as Darfur, Rwanda and the Democratic Republic of Congo have been accused of and/or indicted under the International Criminal Courts and International Criminal Tribunals for Rwanda and the Former Yugoslavia for sexual violence as a form of state crime, amongst other indictments. However, there are serious limitations in accepting legal rights discourses in relation to women's experience of sexual violence in conflict, in terms of prevention and prosecution, but also with voids between what is identified and accepted as 'crime' in contrast to acknowledging harm (Canning, 2010).

## **Lack of adequate support**

In relation to the social and emotional harms to which women are subjected stated earlier, if prevention is not in place, at least responses to effects should exist in the way of support infrastructures and asylum policy. Whilst the latter is developing in the UK, support beyond the voluntary sector is nominal in the asylum system, if it exists at all in some areas. Survivors of rape (as well as asylum seekers more generally) continue to experience an adversarial system that subjects them to forms of double victimisation similar to those

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Democratic Republic of the Congo Refugee Camp

vulnerable women from further victimisation and abuse, in the UK and her country of origin.

**A state crime?**

Challenging conventional ideologies, (including his own), Chambliss (1995) argued that ‘state crime’ should incorporate ‘behaviour that violates international agreements and principles established in the courts and treaties of international bodies’. Under this wider definition of state crime, it could be argued that, in wrongly refusing protection, governmental organisations such as the UKBA are party to Chambliss’s definition of state crime. Furthermore, if asylum applicants are wrongly refused protection as the result of an adversarial system, there exist further elements of compliance in crimes against individuals and groups, including crimes against humanity.

Either way, the British state may not fall into the realm of state crime ‘perpetration’ where violence against women in conflict is concerned, since gendered persecution is not specifically recognised as grounds for refugee status in the Geneva Convention. However, the inclusion of women as a Particular Social Group in need of protection remains a necessity. This is particularly relevant in view of the prevalence of experience of sexual abuse amongst women in the asylum population within which some studies demonstrate that more women have experienced sexual violence than have not (Medical Foundation for the Care of Victims of Torture, 2009). Considering also that element, such as state-sanctioned destitution through inadequate asylum review, can increase women’s vulnerability to forced prostitution and other forms of sexual exploitation and abuse, it is also essential that the state recognises its role in protecting women who remain in this country. The first step to this is in the initial stages of the applicant’s claim, as identified in the UKBA’s own Gender Guidelines, which advises sensitivity to gender, cultural norms and disclosure of violence (in Asylum Aid, 2011). As woman-centred organisations have long demonstrated, it is important that

identified by feminists regarding the UK criminal justice system (Temkin, 1997). Women are routinely questioned with interviews lasting up to eight hours, with instances of case workers having little or no familiarity with the subject or the applicant and questionable access to country of origin information when reviewing cases individually (Asylum Aid, 2011).

To reflect on the oral history outlined earlier, at one point Hawwi was interviewed for almost half a

day, four days after heart surgery (complications which arose from reactions to antiretrovirals she took owing to HIV transmission from rape). The UKBA case owner

(assigned to work with the applicant through the asylum claim) who represented her in court was not her original case owner, and highlighted to the immigration judge that he was not familiar with her application. Furthermore, Hawwi’s claim was refused before the courts had received her medico-legal report indicating torture, human rights abuses and sexual violence, as well as her HIV status and depression. Speaking of her denial for asylum, Hawwi recalled, ‘I am floating, my mind is floating and restless, after I

received that decision, and I don’t have sleep.

Non-governmental research in the UK consistently demonstrates instances of erroneous decision making and rigorous adversary similar to Hawwi’s experience. Reports by Asylum Aid (2011) and the Refugee Council (2009) highlight that inadequate implementation of gendered review can have serious impacts on women. A lack of a gender-sensitive approach can lead to denial of necessary support, create

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barriers to domestic violence refuges and problematise access to the British criminal justice system, if needed. As such, it can result in unfair review of

claims for women applying for asylum in the UK, perpetuating harm against them socially, politically and emotionally through marginalisation and exclusion. As The Medical Foundation for the Care of Victims of Torture (2009) determined, this harm can go beyond the consequences of crimes of violence to impact on a women’s mental and even physical well-being, with life-threatening potential if she is wrongly returned to her country of origin.

This brings the focus back to the role of the British state in protecting

gender sensitivity is embedded in all aspects of working with vulnerable women and not sidelined or approached as an add-on.

It is strongly evident that women fleeing conflict or unrest and seeking asylum are often survivors or witnesses of sexual violence, amongst other possible forms of torture. As has been highlighted, whilst this is a form of sexual harm, the effects relate to wider social harms. These harms, including social and emotional, are often experienced in the survivor's country of origin and can be state-sanctioned with little chance of protection or prosecution, and often under state impunity, as well as in domestic spheres. However, as this article has argued, many women continue to experience harm at the hands of the British state that can relate to re-traumatisation of earlier experiences through repetitive interviewing owing to disbelief, or additional harms such as unsafe forcible return to their country of

origin. Destitution, exploitation and social marginalisation whilst in the UK can expand forms of harm that may not fall under national or international legislation, but that have significant consequences on the emotional, social and even physical well-being of already marginalised women. Indeed, steps have been taken by the UKBA and Home Office to challenge these issues, but without thorough implementation women continue to face barriers to emotional support, physical protection and adequate internationally recognised human rights. ■

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### References

Asylum Aid (2011), *Unsustainable: the Quality of Initial Decision Making in Women's Asylum Claims*, [www.asylumaid.org.uk/data/files/](http://www.asylumaid.org.uk/data/files/)

[publications/151/UnsustainableWEB.pdf](http://publications/151/UnsustainableWEB.pdf) (accessed 11 February 2011).

Canning, V. (2010), 'Who's human? Developing sociological understandings of the rights of women raped in conflict', *International Journal of Human Rights*, 14 (7), pp.84–862.

Chambliss, W. (1995), 'Commentary', *Society for the Study of Social Problems*, 26 (1), p.9.

Medical Foundation for the Care of Victims of Torture (2009), *Justice Denied: The Experiences of 100 Torture Surviving Women of Seeking Justice and Rehabilitation*, [http://justice-denied.torturecare.org.uk/Justice\\_Denied.pdf](http://justice-denied.torturecare.org.uk/Justice_Denied.pdf) (accessed 10 December 2009).

Refugee Council (2009), *The Vulnerable Women's Project: Refugee or Asylum Seeking Women Affected by Rape or Sexual Violence*, [www.refugeecouncil.org.uk/policy/position/2009/vulnerable\\_women/vulnerable\\_women\\_lit\\_review.htm](http://www.refugeecouncil.org.uk/policy/position/2009/vulnerable_women/vulnerable_women_lit_review.htm) (accessed 10 May 2010).

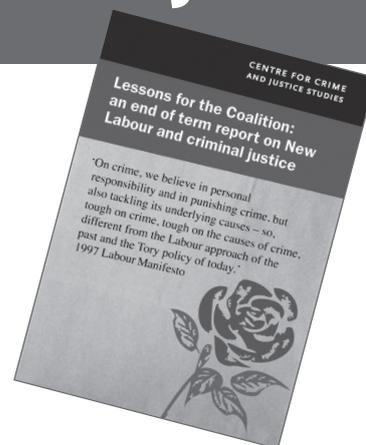
Temkin, J. (1997), 'Plus Ça Change: Reporting Rape in the 1990s', *British Journal of Criminology*, 37.4s. vol. 37, no.4. pp. 507-528.

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