



A joint submission to the House of Lords Select Committee on Sexual Violence in Conflict

Inquiry into Preventing Sexual Violence in Conflict

September 2015

Scottish Refugee Council

Scottish Refugee Council is an independent charity providing advice and information to people seeking asylum and refugees living in Scotland, campaigning for their fair treatment, and speaking out on refugee issues.

The Refugee Council

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

Contact information

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About our response

1. We welcome this opportunity to respond to the call for evidence from the House of Lords Select Committee on Preventing Sexual Violence in Conflict. Our organisations would be happy to provide any further written or oral evidence to the Committee.
2. We welcome the UK Government's commitment to addressing sexual violence in conflict. Sexual violence or fear of sexual violence forces many women and girls to flee their homes and seek international protection. Women on the move are further exposed to risks of sexual violence and exploitation. In the context of the worst refugee crisis since the Second World War, more attention is urgently needed on preventing and responding to the experiences of sexual violence faced by women who are forcibly displaced by such violence.
3. Our response to this inquiry focuses on the most prevalent issues concerning refugee women's safety and protection in flight, during their journeys in search of a safe haven and their experiences upon arrival in the UK. In each section we provide recommendations that focus on the prevention of sexual violence and the rights and needs of survivors.

Global displacement and sexual violence

Background and key concerns

4. When people are forcibly displaced because of conflict or persecution it is often many years before they are able to find a safe haven where they can begin to rebuild their lives. Displacement can expose people to dangerous circumstances within their country of origin, transit countries and also in the country in which they seek protection. Women are at particular risk of sexual violence when on the move, as the power dynamics at the root of the inequalities facing women around the globe are magnified in precarious situations of transit and marginalisation.
5. With almost no legal avenues for international travel open to them, refugee women are forced to take ever greater risks in order to find protection. There have been many cases of women being raped by smugglers or forced to 'exchange' sex for passage to safety, while a growing number of refugees and internally displaced persons (IDPs) are at risk of trafficking for sexual exploitation. Some have even been targeted by traffickers in reception centres and refugee camps. When collecting water and firewood women risk sexual violence, either from other refugees or from host communities, and shortages of food can put women under pressure to offer sex so that they and their families can eat. Many refugee women have been separated from the father, partner or male relative who might normally protect them, while changes in gender roles brought about by displacement can also lead to high levels of domestic violence.¹
6. Displaced women's experiences of violence have been well documented by international humanitarian organisations. UN Women has evidenced the high incidences of violence against women and girls in camp settings, such as those surrounding Syria.² Medecins Sans Frontier (MSF) has documented the high risk of sexual violence facing women and girls at the hands of criminals, smugglers and traffickers travelling through transit countries such as Morocco, Libya and Egypt. Between May 2009 and January 2010, one in three women treated by MSF in Rabat and Casablanca reported being subjected to one or more sexual attacks, either in their country of origin, during their journey and/or in Morocco, which is

¹ Refugee council (2009) *The Vulnerable Women's Project: Refugee and Asylum Seeking Women Affected by Rape or Sexual Violence. Literature Review*. Accessible online at: http://www.refugeecouncil.org.uk/assets/0001/7039/RC_VWP-report-web.pdf

² UN Women (2014), *Gender-based violence and child protection among Syrian refugees in Jordan, with a focus on early marriage*. Accessible online at: <https://data.unhcr.org/syrianrefugees/download.php?id=4351>

likely a significant underreporting.³ A recent Amnesty International report evidences the sexual abuse of women in transit in Libya by smugglers and criminal groups.⁴ Save the Children has highlighted the high risks of violence to displaced children, commonly separated from their families and often compelled to walk for days alone without protection.⁵

Prevention and solutions

7. In order to prevent women and girls from having to make dangerous and irregular journeys in their search for a safe haven, there is an urgent need for the expansion of existing legal channels to protection in Europe (e.g. resettlement, family reunion), and the creation of new routes (e.g. humanitarian visas). Such solutions will help minimise the dangerous journeys women are forced to make. The processes themselves must also be gendered and take women's rights into consideration in order to guarantee their safety and protection and ensure they do not put women further at risk.

Resettlement

8. Resettlement is the selection and transfer of recognised refugees from a state in which they have sought protection to a third state which has agreed to admit them. As such, it provides a safe and legal route to protection in other countries, including the UK, for those refugees that qualify for a resettlement place.⁶ The vast majority of resettlement places are offered by the USA, Canada and Australia.⁷ European countries' resettlement commitments have, until recently, compared poorly, with Europe *as a whole* providing a global annual total of 5,500 places. Since 2004, 500-750 of the resettlement places available in Europe have been offered by the UK via the Gateway Protection Programme. Additionally, there have also been other much smaller ad hoc schemes offering resettlement places for specific groups such as Afghani interpreters.
9. We welcome the UK Government's recent commitment to resettle 20,000 Syrians from the Middle East by 2020 through expansion of the existing Syrian Vulnerable Persons Relocation scheme. We have been calling for a substantial commitment to resettlement by the UK Government since the UN Refugee Agency (UNHCR) appeal in 2013 to states to admit through resettlement or other legal forms of admission 30,000 Syrian refugees.⁸
10. The number of refugees in need of a resettlement place continues to increase year on year and UNHCR has projected that 1,150,000 refugees will be in need of resettlement in 2016. With the number of resettlement places required dwarfing the number of globally available places, **the UK Government's resettlement targets should be kept under review and revised upwards according to need.** **Programmes should also be expanded to provide resettlement opportunities to refugees in other parts of the world.** Our organisations are keen to support the Home Office in this significant expansion in its refugee resettlement programmes, working closely with the devolved administrations in Scotland, Wales and Northern Ireland.⁹

Family reunion

³ Medecins Sans Frontiers (2010), Sexual Violence and Migration: 2010. http://www.msf.org/sites/msf.org/files/old-cms/fms/article-images/2010-00/Sexual_violence_morocco.pdf

⁴ Amnesty International (2015) Libya is full of cruelty: Stories of abduction, sexual violence and abuse from migrants and refugees. Accessible online at: <https://www.amnesty.org/download/Documents/MDE1915782015ENGLISH.pdf>

⁵ Save the Children (2014) Unspeakable Crimes. Accessible online at:

https://www.savethechildren.org.uk/sites/default/files/docs/policy_brief_unspeakable_crimes.pdf

⁶ See the UNHCR resettlement handbook for more information on the resettlement submission categories (including Women and Girls at Risk who have protection needs particular to their gender), accessible online here: <http://www.unhcr.org/3d464e842.html>

⁷ In 2014, 73,000 were resettled in the USA, 12,300 went to Canada and 11,600 were resettled in Australia. UNHCR, 2014, *World at War: UNHCR Global Trends, Forced Displacement in 2014*. Accessible online at <http://unhcr.org/556725e69.html>

⁸ In 2014, UNHCR increased this target to 130,000 to be met over 3 years (2013-2016).

⁹ The Refugee Council has played a leading role in providing specialist support to refugees who are resettled via the Gateway Protection Programme in Sheffield and Hull since 2004, and more recently in Leeds.

11. Family reunion is one of the few existing legal channels available for refugees to come to Europe. The families of recognised refugees and those granted humanitarian protection can apply to enter the UK under refugee family reunion rules. However, evidence suggests that refugees seeking to bring their family members to join them in the UK face considerable barriers. Currently, very few refugees with relatives in the UK would qualify for family reunion due to the very restrictive nature of family reunion rules.
12. The UK Government definition of family for the purposes of family reunion is founded on a Western understanding of the 'nuclear family' and is very narrow. Unlike in other EU member states, unaccompanied children granted asylum or humanitarian protection in the UK, are denied the right to reunite even with their closest family members. For adult refugees, only partners and dependent children under the age of 18 qualify for family reunion. This means that a Syrian father granted asylum in the UK would be allowed to bring his wife and younger children to join him; but his 18 year old daughter would not ordinarily be allowed to travel with the family and they would be forced to leave her behind or pay smugglers to bring her to the UK – in either scenario, putting the young woman at considerable risk. The Refugee Council is aware of a number of such cases, including a young Syrian woman who was forced to return to Damascus to live with her elderly grandmother while the rest of her family travelled to live in safety in the UK. Her family remain desperately concerned for her.
13. A British Red Cross report highlights the complexity of the family reunion process.¹⁰ Most worrying, it highlights the humanitarian and protection needs of family members who wish to reunite with a refugee in the UK. Of the 91 cases included in the study, the majority of sponsors (in the UK) were men while 95% of applicants were women and children (seeking to join their sponsor in the UK). 51% of applicants were exposed to security risks. 96% of those exposed to security risks were women and children. The report makes clear that family members of refugees in the UK, entitled under current rules to join them, may be living in insecure conditions and still at risk while they seek to resolve the significant complexities arising from their family reunion application. Where this is not possible and family members are refused, it is reasonable to assume that travelling to the UK through irregular channels, possibly at great risk, becomes the family's only option if they are to live together in safety.
14. Our organisations recommend that **the UK Government proactively seeks to reunite families separated by forced displacement** by:
 - a. Making legal aid available for family reunion
 - b. Simplifying the family reunion process and seeking ways to make it safer for applicants living in insecure conditions
 - c. Amending the rules so that unaccompanied children found to be in need of protection are allowed to bring their family to the UK
 - d. Taking a more flexible approach to the definition of family during this time of exceptional need.
 - e. Ensuring that the relevant team in the Home Office is sufficiently resourced to swiftly process family reunification applications.

Humanitarian visas

15. Humanitarian visas are a further safe and legal route that should be given full consideration by the UK Government in order to prevent women and girls making dangerous journeys to seek protection. Humanitarian visas allow those fleeing war and persecution to legally and safely travel to a country so that they can apply for asylum. Although processes vary, generally the individual approaches a potential host country's consular representation to say that they want to seek protection in that country. The consular representation decides whether to issue a humanitarian visa based on a basic

¹⁰ British Red Cross (2015), *Not so straightforward: the need for qualified legal support in refugee family reunion*. Accessible online at: <http://www.redcross.org.uk/~media/BritishRedCross/Documents/About%20us/Not%20so%20straightforward%20refugee%20family%20reunion%20report%202015.pdf>

pre-screening exercise. Upon granting the visa, the individual can then travel to the host country where they then lodge an asylum application.

16. France and Brazil have both established such schemes in response to the Syrian crisis. As of February 2015, Brazil had issued over 7,000 humanitarian visas to Syrian refugees, while France had allowed 1,880 Syrians to travel on such a visa in order to apply for asylum in country. In contrast, the UK Government has actually made it *more difficult* for Syrians to reach the UK legally, for example, by dramatically reducing the number of visas it grants to Syrian nationals since the conflict in Syria began: in 2010 the UK approved 70% of visas for Syrian nationals; in 2014 this dropped to 40%.¹¹
17. We recommend that the UK Government **explores the use of humanitarian visas to facilitate access to protection in the UK for refugees** through discussion with other EU member states and other states already issuing similar visas.

Refugee women arriving in Europe

Background and key concerns

18. Reception conditions for refugees in European countries currently experiencing a high volume of new arrivals are wholly inadequate and put women and girls at high risk of exposure to sexual violence. The failure of a Common European Asylum System is forcing women and children, as well as men, to continue to travel irregularly, creating 'hot spots' or pressure points in different locations across Europe where there is insufficient or no shelter and protection for women and children. Inevitably, women's safety will be compromised. For example, in Calais, there have been reports of around 200 women sleeping rough amongst 3,000 men, leading to women reportedly being forced to seek out male 'protectors' and/or transactional relationships as survival strategies.¹²

Prevention and solutions

19. The UK Government must acknowledge that a more equitable sharing of responsibility for refugees is required at EU level. As a first step, the UK should be participating in EU plans to relocate 160,000 people from Italy, Greece and Hungary in clear need of temporary protection to other member states. The UK should also be insisting that any relocation scheme is rights based and gendered.
20. **The UK Government must also play a greater role by making full use of the clauses in Dublin III Regulations (EU regulation 604/2013) that protect family unity** (specifically articles 8, 9, 10, 11, 16 and 17).
21. The Dublin regulations aim to deal with the situation where an individual applies for asylum in one EU member state, but has previously made an application (or been present) in another. In such cases, the individual may be transferred to the first EU state. The Dublin regulations have been recast twice and the most recent version, Dublin III, clearly states that respect for family reunion and the principle of family unity should govern decisions about which country is responsible for deciding asylum applications.¹³ However, while Dublin III came into force in 1 January 2014, the publicly available UK guidance used to determine Dublin cases has not been updated to reflect this change, and still refers to Dublin II.¹⁴ As a result, it is unclear what written instructions staff in the Home Office are working to,

¹¹ <http://www.theguardian.com/uk-news/2015/mar/11/syrian-refugees-uk-visa-asylum-seekers-vs>

¹² The Pool, The Brutal and Devastating Hardship faced by women at Calais, August 2015. Available here: <https://www.the-pool.com/news-views/latest-news/2015/34/the-hardships-faced-by-the-women-at-calais>

¹³ Article 8 requires Member States to reunite children with family members, siblings or relatives. Articles 9, 10 and 11 relate to the reunification of family members (spouse, partner and dependant children)

¹⁴ https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/265184/oeachapter28.pdf

which is a concern because of the significant improvements made to policy in the latest iteration of the regulation. **The needs addressing as a matter of urgency.**

22. The Dublin III regulations also contain a discretionary power for governments to bring together relatives where family or cultural considerations prompt a request for the UK to take responsibility for asylum requests made in other Member States (articles 16 and 17). A generous use of this discretionary power would not only be a way of showing solidarity with those countries experiencing most pressure on their asylum systems, but also of preventing women and girls from taking risks and making irregular secondary journeys within Europe in order to join relatives in the UK. Some women in Calais may be eligible to have their asylum claims considered by the UK under Dublin III.
23. We ask that the UK works with other European countries to share responsibility for refugees arriving in Europe and reduce the need for women to take dangerous onward journeys through irregular means by:
 - a. Participating in the EU-wide relocation scheme
 - b. Ensuring that the latest iteration of the Dublin Regulation is reflected in UK guidance as a matter of urgency
 - c. Making full use of the provisions contained in the Dublin III regulations to protect family unity.

Refugee and asylum seeking women and girls in the UK

Background and key concerns

24. Our organisations have significant concerns about how women who have experienced or fled the risk of sexual violence in conflict are treated in the UK asylum process, in particular how the needs of survivors are identified and addressed by the UK Government; the poor quality of decision making in women's asylum claims; and how the asylum support system fails to guarantee women's ongoing safety and protection from violence.
25. A report by Scottish Refugee Council found that 70% of newly arrived asylum seeking women in Scotland had experienced physical and/or sexual violence in their lifetimes.¹⁵

Identifying and responding to disclosures of sexual violence

26. Since 2013, our organisations have been working with the UK Government, alongside UNHCR, to support the Home Office to improve its response to women in the asylum process who disclose sexual violence. We have welcomed engagement with the Government on this issue, which has led to our organisations delivering training to 100 asylum screening staff on responding to sexual violence and signposting women to support services. However, we feel that obstacles to this work, such as funding and capacity on the part of the UK Government, have made progress very slow. The culmination of two years of work has been the delivery of six training sessions and we are still waiting for commitment from the Government to a relatively small amount of funding for roll out of the training, and a pilot referral mechanism to support survivors to be referred directly to support services by Home Office staff. We feel strongly that **as part of its commitment to tackling sexual violence in conflict, the UK Government must prioritise and resource work to address the needs of those women who seek our protection from such violence.**

Decision making on women's asylum claims

¹⁵ Scottish Refugee Council & London School of Hygiene & Tropical Medicine (2009) *Asylum seeking women: violence and health*. Accessible online at: <http://www.scottishrefugeecouncil.org.uk/assets/0000/0097/Asylum.seeking.women.violence.and.health.pdf>

27. We have continued concerns about the quality of decision making in women's asylum claims despite notable efforts by the Home Office in recent years to improve decision making on asylum claims, including on women's claims. This work has not only involved updating relevant guidance but has also included developing training for decision-makers on women's issues. However, the proportion of asylum decisions overturned by a court is still consistently higher in women's cases than men's,¹⁶ leading the Home Affairs Select Committee to conclude that the Home Office is more likely to get decisions on women's claims wrong.¹⁷
28. On-going problems with decision-making on women's claims may in part be explained by problems with implementation, and practice not reflecting updated guidance and policy. They may also in part be explained by the fact that Home Office efforts to make the asylum system more gender sensitive have tended to focus on the asylum determination system in isolation and there is a lack of recognition of how the wider asylum system may impact on a woman's ability to present her case.
29. The most extreme example of reception procedures that obstruct the ability of women (and men) to present their case for protection is the Detained Fast Track (DFT). Our organisations are fundamentally opposed to the use of DFT and believe that the process, found to be unlawful in its current form, is particularly inappropriate for women who have experienced sexual violence. Home Office policy identifies certain people as being unsuitable for the DFT, including pregnant women and victims of trafficking and torture. We strongly recommend that the exclusion criteria should be extended to include women who disclose that they have been affected by gender based violence. A rapid process, which takes place in detention where women are unlikely to feel safe, is patently inappropriate for women expected to disclose difficult details of the violence they have experienced.

Asylum seeking women's safety in the UK

30. The Istanbul Convention on combatting and preventing violence against women and girls, which has been signed but not ratified by the UK, requires signatories to develop gender-sensitive reception procedures that take into account women's and men's differences in terms of experiences and specific protection needs to ensure their right to safety. Our organisations believe the asylum support system in the UK fails to do this principally because of a lack of attention to women's safety in Home Office guidance and rules on asylum support, the guidance that determines how and if a woman will be housed and supported while she is waiting for a decision on her asylum claim. **Appropriate safeguards must be developed to ensure that women are not forced into circumstances that make them more vulnerable to sexual violence and exploitation in the UK.**
31. Currently, there is only one piece of guidance that specifically addresses the issue of women's safety within the asylum support system relating to reports of domestic abuse by those accommodated in Home Office contracted accommodation.¹⁸ This guidance excludes those women not in receipt of asylum support and those in receipt of subsistence-only support not living in Home Office contracted accommodation. Without access to mainstream benefits, asylum seeking women are not eligible for refuge accommodation and may be forced to choose between street homelessness and returning to a violent home whilst they wait for a response from Home Office contractors to a report of abuse, or a response from the Home Office to an application for asylum support in their own right. **The Home Office must guarantee funding for immediate access to refuge places for women and children seeking**

¹⁶ In 2014, 33% of appeals by women were allowed by the courts compared to 27% of appeals by women. See statistics accessible online here: <https://www.gov.uk/government/publications/immigration-statistics-april-to-june-2015/asylum>

¹⁷ House of Commons Home Affairs Committee. October 2013. *Asylum*. Seventh report of session 2013. Para 46

¹⁸ UK Government Home Office, *Asylum Support Policy Bulletins: Instructions*, https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/422990/Asylum_Support_Policy_Bulletin_Instructions_Public_v6.pdf

asylum who have been affected by domestic abuse until they are found safe and secure accommodation through the asylum support system.

32. Difficulties accessing asylum support and gaps in the system, for example, for those refused asylum or recently arrived in the UK seeking to access the asylum process, can result in women facing destitution. Research commissioned by Scottish Refugee Council, British Red Cross and Refugee Survival Trust found that, in one week alone in March 2012, 148 asylum seekers using services in Glasgow were destitute - 38% were women.¹⁹ Destitution forces women to rely on extremely unsafe strategies for survival and puts them at significant risk of sexual violence and exploitation.
33. Even when women are able to access asylum support, accommodation provided by the Home Office through its contractors G4S, Serco and Clearel, is often unsafe and of poor quality.²⁰ Shared living and social areas in initial accommodation centres are overwhelmingly dominated by men, and many such centres have few or no women-only spaces, potentially further exposing women who have experienced violence to additional trauma and/or risk. It should be a requirement that **all initial accommodation centres have clear policies and procedures in place specifying measures to guarantee the safety of women residents, including the implementation of women and children only corridors and social areas and, where provision includes meals, these should be organised so that women and children are able to access the canteen without feeling intimidated.**
34. **Similar measures are needed in some detention centres.** Dungavel Immigration Removal Centre has a capacity of 170 men and 18 women. Although there are separate sleeping areas for men and women, social areas are open to both men and women. The vast gender imbalance within these social spaces has led to female detainees speaking of feeling intimidated and threatened by this overwhelmingly male environment. Many detainees are refused asylum seekers, and given the prevalence of gender based violence experienced by women in the asylum process, there is a serious risk that this disparity could reawaken underlying trauma or indeed heighten existing trauma.
35. Our organisations believe that detention has no place in the asylum system and continue to be alarmed by reports that torture survivors, pregnant women and women with mental health needs are still being detained against UK Government guidance. Given the level of criticism of Yarl's Wood and other detention centres, including by independent scrutinisers, we would like to see **a wholesale review of detention that looks at the decision to detain and to continue to detain and not just the welfare of detainees.**

Conclusion

36. The UK Government's commitment to tackle sexual violence in conflict is to be commended. However, in an age of unparalleled forced displacement there is an urgent need to build on this work by seeking to address the risks and dangers facing women on the move, often fleeing sexual violence or fear of it. Efforts to address the violence and exploitation experienced by refugee women must also examine how attempts by states, including the UK, to tackle irregular migration through border enforcement, have the unintended consequence of putting women still further at risk, forcing them to travel irregularly often with smugglers. Similarly, while piecemeal efforts in the UK to improve the system for women are welcome, they are lost in a wider system that prioritises deterrence, inevitably impacting on women's safety here in the UK.

We hope that the issues outlined in this submission from initial displacement through to the asylum system in the UK, offer a starting point for further exploration by the Committee.

¹⁹ Gillespie, M (2013) *Trapped: destitution and asylum in Scotland*, Scottish Poverty Information Unit, Glasgow Caledonian University. Accessible online at: http://www.scottishrefugeecouncil.org.uk/assets/0000/5050/Trapped_destitution_and_asylum_final.pdf

²⁰ Scottish Refugee Council (2014) *The extent and impact of asylum accommodation problems in Scotland*. Accessible online at: http://www.scottishrefugeecouncil.org.uk/assets/0000/8609/Scottish_Refugee_Council_asylum_housing_report.pdf