

Country of Origin Information and Women: Researching gender and persecution in the context of asylum and human rights claims

Bethany Collier

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Asylum Aid offers free legal advice and representation to people claiming asylum.

We represent individuals from initial application to the appeal tribunal stage.

Asylum Aid specialises in gender claims by women and girls seeking protection from the types of harm which women are exclusively or disproportionately subject to.

The Refugee Women's Resource Project (RWRP) is part of Asylum Aid. The RWRP has two legal caseworkers specialising in gender claims, two researchers, one undertaking primary research into issues affecting refugee women and one focusing on desk research for individual women's asylum and human rights claims, and a coordinator focusing on policy and campaigns. The RWRP is unique, both in the way it integrates dedicated legal advice provision, original research and country information expertise, and in its use of the information it generates through this work as the evidence base for its policy development, lobbying and campaigning.

We produce a monthly bulletin, 'Women's Asylum News', which is read internationally as a source of legal and country information by legal practitioners, women's organisations, NGOs and refugee community organisations.



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Introduction

This publication is designed as a practical guide to researching gender and persecution in the context of asylum and human rights claims. It is intended for those who are involved in collating information about human rights conditions in refugee producing countries, whether in a professional or voluntary capacity. These may include legal representatives, researchers and library/information workers. These professionals might be based within private and voluntary agencies providing legal advice and representation, or web-based agencies hosting electronic libraries/databases or within government departments.

Generally their roles are to:

- Produce country reports on human rights conditions in countries of origin
- Undertake case research on individual asylum or human rights claims on behalf of legal representatives or individuals
- Work in library/information settings in the asylum field, supporting research on human rights in countries of origin

Increasingly volunteers are undertaking research on behalf of asylum seekers who are in detention, who are without representation or who feel they are receiving poor representation.

These volunteers may be working with refugee community organisations, faith based groups, befriender organisations and non-asylum organisations that have a lot of contact with asylum seekers.

RWRP has given research support to professionals and volunteers working within the determination process, and to those whose primary contact with asylum seeking women is in a non-legal environment such as education, health and psycho-social support workers. RWRP also provides research support directly to asylum seeking women.

This research guide discusses types of gender persecution pertinent to the context of researching women's individual asylum claims. It focuses on research issues within women's claims because materials needed to substantiate women's cases often relate to gendered experiences of violence and the socio-cultural fabric of the society women live in, and such information is not readily available in usual sources of Country of Origin Information (COI).

This publication is a research guide, not a legal guide, and is intended to assist individuals undertaking COI research parallel to legal argument. It does not seek to give guidance on running asylum and human rights cases.¹

This publication explores persecution experienced by women as a consequence of not conforming to ascribed gender roles.

This publication covers:

- Issues raised in relation to women's cases and country of origin information
- Types of gender related persecution and their impact on women
- Strategies for researching country of origin information in relation to women

This guide is based on the author's experience of researching individual women's asylum cases and writing and editing COI reports.

¹ In accordance with the Immigration and Asylum Act 1999, immigration advisers are regulated by the Office of the Immigration Services Commissioner (OISC). It is a criminal offence to give immigration advice or services unless your organisation is either registered with the OISC or has been granted a certificate of exemption by the OISC, or unless the organization is otherwise covered by the Act. An individual's case may be prejudiced if you are working outside your area of expertise or competence. See www.OISC.gov.uk for further information.

Section 1

Section 1 begins by defining COI and its role in the asylum determination process. It then identifies the different types of COI material used by decision-makers in the asylum determination and appeals process (with particular emphasis on COI reports, COI key documents, APIs and country guidance cases). It considers the roles of the Home Office COIS, BIA, judiciary and APCI.

Section 2

Section 2 provides background information on issues relating to refugee law, gender and persecution. It outlines the concepts of gender, gendered persecution and the definition of a refugee under the terms of the 1951 Refugee Convention. It considers how women's experiences of persecution can be different to men's, and the role that COI can play in overcoming some of the difficulties that the Refugee Convention can pose for gendered persecution cases.

Section 3

Section 3 describes common difficulties in substantiating gender related asylum and human rights claims, due to a lack of relevant research by organisations that produce COI, and the limited accessibility of alternative sources of information. It lists the types of gender specific harm that are relevant to COI research, and considers the implications of gender persecution for women's human rights. It then provides comprehensive information about six types of gender specific harm (FGM, honour crimes, forced and early marriage, rape and sexual violence, trafficking and sexual orientation), in order to demonstrate the extent of information about the impact of the harm that is needed in order to substantiate an asylum/human rights claim.

Section 4

Section 4 sets out a step by step research strategy, that can be applied when conducting individual case research or country specific COI research. It covers:

- Analysis of research questions arising from a claim
- Research strategy, aims and objectives
- Identifying and evaluating sources
- Reporting and presentation
- Information Management

Section 1

Use of Country of Origin Information in asylum and human rights claims

What is Country of Origin Information (COI)?

COI is the term used by those involved with refugee status determination to refer to information about political, legal, cultural, economic, social and human rights conditions in countries generating asylum seekers and refugees.

COI is required within the asylum decision-making process as it provides 'objective evidence' to help assess and determine asylum and human rights applications. Particular difficulties arise in substantiating women's cases due to a lack of research in the field, and consequently a lack of awareness of issues affecting women and a lack of reference to women's issues in COI materials.

What is the purpose of COI?

COI is used to address specific research questions arising from an individual's claim. Information about human rights conditions in a claimant's country of origin is submitted with their application as 'objective evidence' indicating the plausibility of a client's testimony, to help substantiate an asylum or human rights claim. Objective evidence is used by the courts to assess risk to the claimant and in assessing the claimant's credibility.

For COI to be useful as objective evidence it needs to:

- be specific to the individual circumstances of the claimant
- be from a publicly available source
- contain accurate information
- refer to the relevant time period
- come from a reliable source
- be presented in a transparent and traceable manner (i.e. fully referenced).

COI in the decision-making process

The Home Office produces information for use within the refugee determination process. This function is performed by teams within the Border and Immigration Agency (BIA).

The Country of Origin Information Service (COIS) produces the following COI documentation:²

- COI Reports
- COI Key Documents
- COI Bulletins
- COI Fact Finding Missions

² www.homeoffice.gov.uk/rds/country_reports.html

The Asylum Policy Unit produces:³

- Asylum Policy Instructions (API)(Including API on Gender Issues in the Asylum Claim)
- Asylum Policy Unit (APU) Notices

The Country Specific Asylum Policy Team produces:⁴

- Operational Guidance Notes (OGNs)
- Country Policy Bulletins

Home Office COIS Reports

The Home Office Country of Origin Information Service (COIS) produces reports detailing human rights conditions in countries of origin. COIS reports are heavily relied upon by Home Office caseworkers and immigration judges in deciding asylum or human rights claims. Country reports produced by the Home Office have been criticised for not being accurate or up-to-date and for their poor coverage of issues affecting women.⁵ However under the new COIS structure many improvements have been made.

COI Reports

Full reports are written for the 20 countries generating the most asylum applications. These reports are published bi-annually. Information in the section on women is divided into segments on legal, political, social and economic rights and violence against women. Information on the treatment of lesbians and on trafficking appear in separate sections.

COI Key Documents

COI Key Documents are produced for those countries outside the top 20 but within the top 50. These documents are updated annually. The Key Document selects a limited number of web links to support each header from the COI report. Often for the section on women reference is made to a single source e.g. US State Department report. This means women coming from countries outside the top 20 but within the top 50 will have their cases decided by Home office caseworkers with reference to country information coming only from a single or limited sources.

Asylum Policy Instructions

The Home Office has published an Asylum Policy Instruction (API) outlining how gender issues should be addressed within the asylum claim by government decision makers. With regard to objectivity and country information it states: "Decision makers should familiarise themselves with the role, status, and treatment of women in the country from which a woman has fled",⁶ with reference to the position of women before the law, political rights of women, social and economic rights, consequences for women who refuse to abide by or who challenge social norms, incidence and form of violence, efficacy of protection available and consequences that may befall a woman.⁷

3 www.ind.homeoffice.gov.uk/documents/asylumpolicyinstructions

4 This team is based within the Asylum and Appeals Policy Directorate
www.ind.homeoffice.gov.uk/lawandpolicy/countryspecificasylumpolicy

5 The IAS report, Home Office Country Assessments: An Analysis, 2004 was influential in drawing attention to concerns about the former Country Information and Policy Unit (CIPU) reports. It is widely acknowledged that the COIS reports have improved since the separation of research and policy functions of the former CIPU. The COIS team have met with stakeholders including the RWRP to improve gender coverage, and COIS have also responded to comments raised through the APCI.

6 Home Office Asylum Policy Instruction: Gender Issues in the Asylum claim, 2006. For further quotation see appendices.

7 Home Office Asylum Policy Instruction: Gender Issues in the Asylum claim, 2006.

The Home Office has been accused of not following its own guidance in relation to gender issues⁸.

Judges

The immigration judges' training programme requires them to attend induction training for a total of five days and to observe three days of hearings with an experienced judge, they then sit with an experienced judge for two days before they can preside over cases on their own.⁹ Judges' previous experience within the field of law may not be in immigration, asylum or human rights law, therefore they may not have a background which gives them particular experience or insight into human rights conditions in countries of origin.

It is important not to assume that judges will have previous knowledge of a country or a human rights issue. Judges may develop knowledge through dealing regularly with cases from a particular country. However, what judges know about a country's human rights conditions might come only from the documents presented to them by the legal representatives of the Secretary of State and the asylum claimant (or by the asylum claimant if without representation). Indeed, in an adversarial system judges are expected to draw only from evidence presented to them and are under no obligation to undertake their own investigation into country of origin issues.

It would be an error of law for a judge not to take COI into account in determining cases.

For further indication of how COI may be assessed by the courts see the International Association of Refugee Law Judges (IARLJ) checklist (Appendix).

Country guideline cases

Country guideline cases give direction to judges on how to view cases from particular countries on a given issue. It would be an error of law for a judge not to follow country guideline cases unless he/she justifies such a deviation. Introduced in 2003, they have been criticised as being flawed in both their process and in their representation of conditions in countries of origin. Many guideline cases are based on incomplete country information, and either do not consider or ignore important and up-to-date evidence.¹⁰ Country guideline cases can be accessed through the Asylum and Immigration Tribunal and the Electronic Immigration Network.¹¹

Advisory Panel on Country Information

The Advisory Panel on Country Information (APCI) was established by parliament to monitor country information produced by the Home Office for use within asylum and immigration decision-making, particularly their former CIPU reports, now COIS reports. In 2007 the APCI commissioned a researcher to undertake a thematic review of gender in COIS reports, looking at the coverage and accuracy of information. This research found that the reports were of varying quality, and whilst strongest on the subject of violence against women, "most reports are missing important aspects of issues relating to women. The major missing element – in all of the reports – is any substantive and thorough examination of women's health issues, which are vital to an understanding of discrimination against women and

8 Ceneda, S., Lip Service or Implementation? The Home Office Gender Guidance and women's asylum claims in the UK, Asylum Aid, 2006. For full text quote see appendices.

9 Information provided to Asylum Aid by a Judicial Training Team leader, October 2007

10 Colin Yeo (Ed), Country Guideline cases: benign and practical?, Immigration Advisory Service, London, February 2005

11 www.ait.gov.uk, www.ein.org.uk

persecution. There is also a consistent lack of acknowledgement that women are often the “poorest of the poor”, which will affect their ability to access services (including health services, legal representation, education, adequate nutrition), participate in political processes and civil society and render them less able to protect themselves and more vulnerable to abuse and the need for transactional sex.”¹²

The research found that whilst some country reports provided a range of information appropriate to the country context “others fail to focus on particular aspects of VAW [violence against women] or do not provide enough depth (including on legal redress, impunity and State failure to protect).”¹³

The RWRP is represented as an observer on the APCI and has used this position to lobby for improvements to gender information in COIS reports.

12 Allen, N., Analysis of the coverage of gender issues in country of origin information reports produced by the COI service for the Advisory Panel on Country Information, APCI, August 2007. See minutes of the 9th meeting of the APCI, 2 October 2007. www.apci.org.uk.

13 Allen, N., Analysis of the coverage of gender issues in country of origin information reports produced by the COI service for the Advisory Panel on Country Information, APCI, August 2007. See minutes of the 9th meeting of the APCI, 2 October 2007. www.apci.org.uk.

Section 2

Gender

'Gender' refers to socially and culturally defined roles and identities based on whether a person is male or female. Gender differs from sex, which is a biological determination. As a social construction, gender roles dictate power relations between men and women, having significant implications for these relations and a person's identity, status, responsibilities and behaviours.¹⁴ Both men and women can be discriminated against on the basis of gender.

Gender roles are created when social expectations are imposed upon someone because of their biological sex

Examples of gender characteristics include:

- Men are allowed to drive cars, women are not
- Men should not wear make up, women can
- Men are considered head of households, women are submissive to their husbands
- Women may need permission to leave family home, whilst men do not

Examples of sex characteristics include:

- Women give birth, men do not
- Women menstruate, men do not
- Men have testicles, women do not¹⁵

The experience of having to conform to ascribed gender roles can be oppressive for both men and women, affecting and controlling their daily activities. Explicit and implicit expectations and demands are made with regard to their behaviour and personal conduct.

Socially defined rules govern how members of each gender should behave when interacting with each other. Not conforming to the ascribed role can lead to various levels of persecution, which is used to intimidate individuals into conforming or as punishment for transgression.

Men (and boys) can be victims of gendered societal expectations too, for example with regard to sexual orientation and pressure to conform to 'masculine' behaviours. Men (and boys) can experience forced marriage, be victims of honour crimes or sex slavery¹⁶.

¹⁴Further definitions of gender can be found in Refugee Women's Legal Group (RWLG), Gender Guidelines for the Determination of Asylum Claims in the UK, July 1998, Immigration Appellate Authority, Asylum and Gender Guidelines, November 2000, UNHCR Guidelines on International Protection: Gender-Related Persecution within the context of Article 1A(2) of the 1951 Convention and/or its 1967 Protocol relating to the Status of Refugees, 7 May 2002.

¹⁵World Health Organisation (WHO), What do we mean by "sex " and "gender"?, <http://www.who.int/gender/whatisgender/en/index.html>

¹⁶BBC News, Russian soldiers used for sex, 13 February 2007, <http://news.bbc.co.uk/1/hi/world/europe/6356707.stm>, retrieved 13th February 2007

The focus of this manual is to examine gender roles ascribed to women and the types of persecution used to intimidate them or 'punish' their transgressions.

Refugee Convention

Asylum claims are made under the 1951 UN Refugee Convention (1951 Convention); applications on human rights grounds are made under the European Convention on Human Rights.

Under the 1951 Convention, a refugee is a person who:

"Owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable, or owing to such fear, is unwilling to avail himself of the protection of that country; or who, not having a nationality and being outside the country of his former habitual residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it.¹⁷" COI helps to illustrate whether or not an applicant has a "well founded fear".

Persecution for reasons of gender or sex is not specifically mentioned within the 1951 Convention. Cases based on gender related persecution have to be fitted into one of the five grounds: race, religion, nationality, membership of a particular social group or political opinion.

Many gender related claims are argued on the grounds that the client is a 'member of a particular social group'. It is in defining the social group that COI has a critical role to play. Gender related claims may also be argued on the grounds of political opinion, in which case COI has a role in illustrating that transgression from a social norm may be an articulation of a political opinion, e.g. in refusing to be cut (female genital mutilation), refusing to accept domestic violence as a normal trait of married life, or in refusing to enter into a marriage arrangement.

Persecution

To be recognised as a refugee an asylum applicant must fear a form of harm which constitutes persecution within the meaning of the 1951 Convention.¹⁸ 'Acts' of and 'reasons' for persecution are legally defined by the Refugee or Person in Need of International Protection (Qualification) Regulations 2006.

Legal arguments used to illustrate how a client's claim fits into legal definitions of persecution are beyond the scope of this manual.

For research purposes this guide considers "Persecution = serious harm + lack of state protection"¹⁹.

¹⁷ Convention relating to the Status of Refugees, Adopted on 28 July 1951 by the United Nations Conference of Plenipotentiaries on the Status of Refugees and Stateless Persons convened under General Assembly resolution 429 (V) of 14 December 1950, Article 1. (As amended by the Protocol Regarding the Status of Refugees 1967)

¹⁸ Immigration Appellate Authority, Asylum and Gender Guidelines, November 2000

¹⁹ Hathaway, J., The Law of Refugee Status, Butterworths, Toronto, 1991.

Gendered persecution²⁰

Gender related persecution

'Gender related persecution' refers to the causal relationship between the persecution and the reason for the persecution, i.e. when the reason for persecution is related to a person's gender. It refers to people who are persecuted because they refuse to conform to expectations for their gender (e.g. being beaten for refusing to wear a veil or performing within ascribed gender roles).

Gender related persecution refers to the reason why women are persecuted and encapsulates the experience of women being persecuted because she is a woman.²¹

Gender-specific harm

This term refers to forms of harm which are "more frequently or only used against women or affect women in a manner which is different to men", such as bride burning, forced (and early) marriage, genital mutilation, lack of autonomy over reproductive life (including forced abortion, refusal of access to contraception, forced sterilisation), societal and legal discrimination.²²

Gender specific harm refers to the method by which women are persecuted, and encapsulates women being persecuted as women.²³

How are women's experiences of persecution different from men's?

The traditional image of a refugee is of a male political activist who is persecuted for his political activities against the state. Women may be persecuted for the same reason; however women's political activities often take a different form.

During armed conflict women may be involved as willing or coerced armed combatants, or used as sex slaves, forced into 'marriage' with members of government or rebel forces. They may also hide people, pass messages or provide food, clothing, medical care and other community services. Women may be persecuted for their imputed political opinion for which they may be subjected to human rights violations simply because they are the wives, mothers or daughters of people whom the authorities consider "dangerous" or "undesirable".

In addition, women also face persecution which is unique to them or which disproportionately affects them, as the persecution is related to their gender, for example rape and sexual violence, honour crimes, forced sterilisation, trafficking, genital mutilation and domestic violence, from which women are unable to get state protection.

Women who do not conform to the moral or social standards imposed on them may suffer persecution from the state, members of their family and/or community. Women may be targeted because they are particularly vulnerable, for example those who are young, elderly, disabled, single mothers, widows, those with caring responsibilities or those who have been raped.²⁴

20 For further analysis of gendered persecution see Guidelines on International Protection: Gender-Related Persecution within the context of Article 1A(2) of the 1951 Convention and/or its 1967 Protocol relating to the Status of Refugees, 7 May 2002.

21 RWLG, Gender Guidelines for the Determination of Asylum Claims in the UK, July 1998

22 Immigration Appellate Authority, Asylum and Gender Guidelines, November 2000.

23 RWLG, Gender Guidelines for the determination of Asylum Claims in the UK, July 1998

24 RWLG, Gender Guidelines for the Determination of Asylum Claims in the UK, July 1998

Section 3

Researching women's asylum and human rights cases

Difficulties in substantiating gender related asylum and human rights claims

Many organisations producing human rights and country of origin information focus on the male experience as indicative of the human rights situation in a country. Although women's human rights concerns are increasingly appearing on the agenda, information on women's human rights in country reports often constitutes only a paragraph unless the report is specifically focused on women. This paragraph does not adequately reflect the fact that women represent 50% of most populations and are frequently subjected to forms of persecution different from men.

As human rights reports fail to document the status of women and the forms of persecution that they experience, women's cases may be refused due to a lack of supporting objective evidence. This lack makes it easier for their claims to be 'not believed' and their credibility challenged, and making it harder for them to establish the existence of a convention ground). Consequently women are further discriminated against because there is less information available to support their testimony.

Information relating to social mores and gender roles is often elusive and not available in usual COI sources. This leads to a lack of information and understanding of women's issues, and therefore a legal representative may be unable to make full representations.

Further, websites and portals holding human rights and country reports have limited sections for information relating to women, meaning that information professionals do not actively source or promote reports on types of gender persecution. Comprehensive information relating to women's persecution tends to be of an anthropological nature. Information professionals and researchers are encouraged to make more extensive use of such sources.

In researching women's cases, it may be necessary to go beyond sources appropriate for other claims and locate organisations that specialise in gender specific issues such as female genital mutilation, honour crimes and domestic violence.

In its guidelines on international protection and gender-related persecution the UNHCR acknowledges that evidence to support gender-related claims might not be as readily available as for other refugee claims.

It is important to recognise that in relation to gender-related claims, the usual types of evidence used in other refugee claims may not be as readily available. Statistical data or reports on the incidence of sexual violence may not be available, due to under-reporting of cases, or lack of prosecution. Alternative forms of information might assist, such as the testimonies of other women similarly situated in written reports or oral testimony, of non-governmental or international organisations or other independent research...²⁵

²⁵ 'Guidelines on International Protection: Gender-Related Persecution within the context of Article 1A(2) of the 1951 Convention and/or its 1967 Protocol relating to the Status of Refugees, 7 May 2002. Point 36 x., Procedural Issues.

Country of origin information should be collected that has relevance in women's claims such as the position of women before the law, the political rights of women, the social and economic rights of women, the cultural and social mores of the country and consequences for non adherence, the prevalence of such harmful traditional practices, the incidence and forms of reported violence against women, the protection available to them, any penalties imposed on those who perpetrate the violence, and the risks that a woman might face on her return to her country of origin after making a claim for refugee status.²⁶

Patriarchy

Research cannot be carried out in a vacuum; it is crucial that researchers are aware of the context in which human rights abuses are carried out. Attention should be paid to the cultural and social context of gender based harm and the nature of patriarchal societies and the values that facilitate or condone violence against women.

"Gender relations, and therefore gender differences, are historically, geographically and culturally specific, so that what it means to be a woman or a man varies over place and time. Any analysis of the way in which gender (as opposed to biological sex) shapes the experiences of asylum seeking women, must therefore contextualise those experiences."²⁷

In many parts of the world societies foster unequal power relations between women and men in both the public and private spheres. Women may experience secondary status to men, suffering social, cultural, political, economic and legal subordination.²⁸ In some countries, patriarchal values mean that women are unable to travel without a male relative to escort them, such restrictions having implications for abused women, single women, widows and female-headed households.

It cannot be assumed that women asylum seekers will have had the general civil freedoms in their countries of origin enjoyed by western women.

Gender related issues:

The following gender related issues are pertinent to asylum and human rights research. Many practices could be grouped under more than one heading. This list is not intended to be exhaustive.

Armed Conflict and women

Violence against women during conflict and post conflict
(including child soldiers, being wives of rebels or army officers under coercion)
Providing food and shelter to forces

Domestic Violence

Violence within the family and community
Dowry deaths
Bride burning

²⁶ 'Guidelines on International Protection: Gender-Related Persecution within the context of Article 1A(2) of the 1951 Convention and/or its 1967 Protocol relating to the Status of Refugees, 7 May 2002. Point 37, Evidentiary Matters

²⁷ Refugee Women's Legal Group, Gender Guidelines for the Determination of Asylum Claims in the UK, July 1998

²⁸ United Nations, In-depth study on all forms of violence against women, 6 July 2006

Economic and Social Rights of women

Education
Employment
Social security
Widowhood
Unmarried women and single mothers
Disabled women

FGM

Associated health risks
Vesico-vaginal fistula
Stigma against uncut women
Prerequisite to marriage
Secret societies
Ostracisation
Treatment of uncut women

Health and Women

Availability and costs of medical treatment
Women and children's health services
Mental health

HIV /AIDs and Women

Access to treatment
Social attitudes, including sex with virgin as cure, women spreading HIV
Sexual attitudes of men, multiple partners and opposition to protection

Honour crimes

Self Immolation
Murder
Disfigurement
Acid attacks
Stoning
Reprisal attacks
Kidnap

Marriage

Legal rights
Customary practices
Early marriage
Forced marriage
Bride price
Polygamy
Divorce
Child custody
Single parenthood
Property rights
Widowhood

Political and civil rights of women

Right to vote
Drive/Travel independently
Imputed political opinion

Reproductive health and rights

Coercive family planning
Forced abortion
Forced sterilisation
Forced childbearing
Virginity testing
Contraception
Spouse permission (for access to health care)
Female infanticide
Vesico-vaginal fistula
Sexual Autonomy

Restrictive social/religious norms

Dress codes
Cultural/social mores

Sexual orientation

Lesbian
Bisexual
Transvestite
Sexual autonomy

Sexual violence

Rape (including spousal rape)
Trafficking (including domestic slavery)
Sex slavery
Prostitution
Domestic slavery
Sexual assault

Women in state custody

Detention
Prisons
Police treatment

Women's Legal Status

Discriminatory legislation
Religious laws
Access to protection

Gender persecution: Women's human rights

Women's Human Rights

“Traditional attitudes by which women are regarded as subordinate to men or as having stereotyped roles perpetuate widespread practices involving violence or coercion, such as family violence and abuse, forced marriage, dowry deaths, acid attacks and female circumcision. Such prejudices and practices may justify gender based violence as a form of protection and control of women. The effect of such violence on the physical and mental integrity of women is to deprive them of the equal enjoyment, exercise and knowledge of human rights and fundamental freedoms. While this comment addresses mainly actual or threatened violence underlying consequences of these forms of gender-based violence help to maintain women in subordinate roles and contribute to the low level of political participation and to their lower level of education, skills and work opportunities.”

General Recommendation 19 on the Convention on the elimination of all Forms of Discrimination Against Women

The human rights of men and women are guaranteed within international instruments such as the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights and the International Convention Against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment. However discriminatory interpretations and applications have necessitated international instruments specifically outlining rights and protections for women.

The Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW) defines discrimination as “any distinction, exclusion or restriction made on the basis of sex, which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field.”²⁹

The Declaration on the Elimination of Violence against Women,³⁰ defines violence against women as “any act of gender-based violence that results in, or is likely to result in, physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life.”³¹

The Declaration states that “violence against women” is any physical, sexual or psychological violence occurring in the family, within the general community or perpetrated or condoned by the State, wherever it occurs.³²

29 Convention on the Elimination of all Forms of Discrimination Against Women, adopted by the UN General Assembly in 1979.

30 Adopted by the UN General Assembly in 1993

31 Convention on the Elimination of all Forms of Discrimination Against Women, Article 1

32 Declaration on the Elimination of Violence against Women, Article 2

Under general international law, and if party to specific human rights covenants, States may be responsible “for private acts if they fail to act with due diligence to prevent violations of rights or to investigate and punish acts of violence”.³³ A lack of protection from the state indicates that it is unwilling or unable to offer protection.

Gender specific violence is practised against women who are seen as politically dangerous for transgressing social norms and refusing to conform to ascribed gender roles.

State and non-state agents

Just as states may intimidate or harass individuals as a strategy for power and control, so too do non-state actors within both the public sphere of community and society and the private sphere of the home and family life.

“Where serious discriminatory or other offensive acts are committed by the local populace, they can be considered as persecution if they are knowingly tolerated by the authorities, or if the authorities refuse, or prove unable, to offer effective protection.”³⁴

Torture and psychological trauma

Women may endure actual or threatened physical and psychological violence, often without state protection, so severe that it can be perceived as torture.³⁵ “The severity of the harm inflicted upon women by private individuals can be as damaging as that inflicted on women who are tortured by agents of the state”³⁶ Many of the practices described in this section induce acute psychological trauma, in which women live in constant fear of harm amongst multiple possible and actual abusers, including close relatives and primary care givers.

Amnesty International confirms that “Many abuses in the family or community are intentionally inflicted. In addition, such abuses are often inflicted for similar reasons to torture in custody. Torture in custody is often used not only to extract confessions but also to instil profound dread into victims, to break their will, to punish them and to demonstrate the power of the perpetrators. Similar purposes characterize acts of torture in the family or the community. The perpetrators may seek to intimidate women into obedience or to punish women for allegedly bringing shame on relatives by their disobedience.”³⁷

The perpetrators of violence against women may be other women. For example many girls experience pressure from female relatives to submit to FGM. Concepts of gender inequality are internalised and perpetuated by women to younger generations.

33 General Recommendations made by the Committee on the Elimination of Discrimination against Women, General Recommendation 19, point 9

34 Handbook on Procedures and Criteria for Determining Refugee Status under the 1951 Convention and the 1967 Protocol relating to the Status of Refugees HCR/IP/4/Eng/REV.1 Reedited, Geneva, January 1992, UNHCR 1979

35 Amnesty International, Broken Bodies, shattered minds; torture and ill-treatment of women, London, 2001
Torture is legally defined by the Convention Against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment. The Convention defines torture as: “any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity. It does not include pain or suffering arising only from, inherent in or incidental to lawful sanctions.”

36 Amnesty International, Broken bodies, shattered minds; Torture and ill-treatment of women, London, 2001

36 Amnesty International, Broken bodies, shattered minds; Torture and ill-treatment of women, London, 2001

Restrictive social norms

Types of violence that have been committed against women within a society for so long that they are accepted as usual cultural practice are referred to as harmful traditional practices.

Discrimination against women may be entrenched in a country or society, leading to unequal status within constitutions, legislation, cultural ideology, institutions, the workplace, schools, community and the home.

For many of us the family is a site of security, warmth and comfort. It is the place where we nurture those we love and mentor those who depend on us. The family is a refuge, a haven away from the travails of the real world where we find companionship, joy and care in our most intimate relationships with others. Our general attitudes and our most cherished aspirations are formed in the context of the family.

Unfortunately for many women and girls in the world, this is not their reality. For them, the family is not always the site of care and nurture. Instead it is a place where they experience terrible forms of violence and discrimination. Though some are subject to the brutality of individual family members, others suffer violence because cultural practices sanction the violence and make it legitimate and acceptable within the greater society. These structural forms of abuse are not always seen to constitute violence and are often embedded in the economic and social life of the community. Because of the link to notions of culture, these forms of violence are tenacious and extremely difficult to eradicate. They are probably one of the greatest challenges facing the human rights community in the next few decades.

The type of violence and discrimination that women suffer under the guise of cultural practice are diverse and varied. Some cultural practices result in murder or severe pain and suffering, irretrievably transforming women's lives. Honor killings, female genital mutilation, Sati, the pledging of young children to be concubines or sex slaves, are examples of the type of practices that shock the conscience because they involve physical violence and brutality. For the past few centuries, human rights initiatives have focused on the physical integrity of the human person. The first Special Rapporteur was after all in the area of torture. It is therefore unconscionable that cultural practices that cause severe pain and suffering to women and girls are tolerated as acceptable and legitimate.

Special Rapporteur on Violence Against Women

<http://www.unhcr.ch/hurricane/hurricane.nsf/view01/666287371B6485B1C1256BA0004AADF5?opendocument>

Economic and social rights

In some countries women may not be able to own land or property, go to work, hold a bank account in their own name or obtain credit, making them dependent on male relatives. This reduces women's ability to escape violence within the home and community and to seek protection and redress. It also indicates the difficulties in relocating to another area without male relatives or the support of family networks.

Poverty and unemployment may force women and girls into prostitution for survival; “prostitutes are especially vulnerable to violence because their status, which may be unlawful, tends to marginalise them.”³⁸

Culturally sanctioned inequalities lead to inequities in health status and access to health care.³⁹

Shelters

Many women are financially dependent on their husbands or male relatives, who control money in households. This makes it difficult for women to leave violent situations. Women may not have access to social security (or documents needed to apply as male relatives may have possession of them), alternative accommodation or financial support. Many countries do not have state provided local or national shelters. Often shelter services are provided by local women’s groups or NGOs that may be limited in their capacity to help; these shelters may have strict entry criteria. Entry into a shelter may be socially taboo and stigmatised, leading to reprisals and ostracisation. Recent judgements in asylum decision making show that the existence of a shelter or NGO service, whether or not accessible, may be enough for Home Office and judicial decision makers to determine that protection is available.

It is important to investigate the sheltered services available in countries of origin, the locations, entry criteria (there may be restrictions on age, number of dependants, legal and financial status, may only accept victims of specific types of harm etc.), length of stay available, additional psycho-social and health services offered.

Reporting and Law enforcement

In countries of origin abuses are often under reported particularly because most women are economically dependent on the abusers for subsistence. A woman who has made a complaint may be identified as a ‘trouble maker’ and become vulnerable to further harassment.⁴⁰ Women may face extreme stigma, ostracisation or reprisals for reporting practices which are considered culturally acceptable and for bringing dishonour to the family by making matters public. There may be practical difficulties in reporting, such as the attitudes of law enforcement officials or a lack of legislation supporting their rights. Cultures of gender inequality may be internalised to the point where women are not aware of their rights. As a consequence of a lack of reporting, prosecutions and or documentation by government officials there may be little statistical evidence available about the level of harm and risk experienced by women in countries of origin. This contributes to a tendency for women to appear as an invisible group in country of origin information. A lack of information on the incidence of a harm does not equate to harm and risk not existing.

Police officers often lack the sensitivity, professionalism and training in handling complaints of violence against a woman, and may use informal measures, or encourage women to return to an abusive situation rather than undertake serious investigations. In some countries women may be arrested and imprisoned ‘for their own protection’.⁴¹ Attitudes amongst some police officers show that they down-play the significance of violence against women, perceiving acts of sexual violence within the family to be largely consensual and viewing domestic violence as a private, family matter rather than a criminal offence.⁴²

38 General Recommendations made by the Committee on the Elimination of all Forms of Discrimination against Women, General Recommendation No. 19, article 6

39 World Health Organisation, Gender, <http://www.who.int/topics/gender/en/>

40 Daily Dawn, Woman accuses police of harassment, 11 October 2007, available from <http://www.dawn.com/2007/10/10/nat44.htm>

41 Amnesty International, Afghanistan: Women still under attack - a systematic failure to protect, May 2005, available from <http://web.amnesty.org/library/index/engasa110072005>

42 Human Rights Watch, A Question of Security: Violence Against Palestinian Women and Girls, 2006, <http://hrw.org/reports/2006/opt1106/opt1106sumandrecs.pdf>

In some countries gender discrimination is prevalent within legislation and the court system. Where legislation prohibiting violence against women does exist, there may be a failure to prosecute in practice. Attention should be given to legislation and to the reality of a woman being able to access its protection. In some countries constitutions afford women the legal status of a child. Women's access to financial resources to pursue legal protection may be limited. The law may criminalise women victims of violence e.g. rape victims may be prosecuted as adulterers and victims of trafficking may be prosecuted as prostitutes.⁴³

Research should investigate the application of religious laws and the use of tribal councils and their status, authority and influence in relation to state apparatus.

⁴³ Pearson, E., Human Traffic Human Rights: Redefining Victim Protection, Anti-Slavery International, London, 2002

Types of harm: Issues and implications

A comprehensive understanding of types of gender persecution and how they affect women, including the legal, economic, health, socio-cultural and psychological impact, is required in order to provide quality information on women's experiences of human rights abuses.

This section explores the impact of abuse on women with reference to a practice's legality, social justification, countries in which it is practised, procedures involved, psycho-social and health consequences and risks on return.

Many COI and human rights reports produced do not cover the angles or express the nuances required to substantiate asylum and human rights claims. This section provides an indication of the necessary focus on women's rights and harmful traditional practices for substantiating asylum and human rights claims. However these descriptions are not exhaustive.

Understanding these aspects and including them in research will help to articulate the socio-cultural context of persecution.

This section includes information on: FGM, honour crimes, forced and early marriage, rape and sexual violence, trafficking and sexual orientation.

Female Genital Mutilation (FGM)

FGM is carried out on young girls primarily because their parents feel it is in their best interests. However, FGM inflicts severe pain and suffering on the girl, and its consequences can be life threatening. Dorkenoo (1995) states that FGM 'represents one of the most extreme ways in which women are subordinated by men, and it is sufficiently horrifying to make men and women question practices which women endure in the name of culture and tradition'. FGM is a clear manifestation of a gender-based human rights violation which aims to control women's sexuality and autonomy. FGM has internationally been recognised as a form of torture and violence against women. However, most governments in countries where FGM is practised have done little to put an end to it. Although the prohibition of torture has long been enshrined in international law, FGM has only recently been written into the international human rights agenda...

FGM represents a violation of the right to physical and mental integrity. This violation must be viewed in the context of the systematic denial of women's civil, political, economic and social rights. It is the clear obligation of states, as set out by international legal agreements, to put in place appropriate and effective measures to protect women from FGM. FGM is an act of violence against women, and cannot be separated from the many forms of gender-based discrimination which should be acted upon by governments. Although many governments have ratified human rights agreements condemning FGM, international human rights instruments have only been interpreted into effective and enforced legislation in a very small number of cases...

It is firmly believed by a core group of human rights campaigners active in the field of FGM and Women's rights that the practice of FGM is a violation of the right to good health and bodily integrity of African women and girls. This is an argument which is often put forward when discussing issues of medicalisation of FGM, which can be said to reduce the harmful health consequences of the practice, but the question of human rights remains.

In many countries FGM is carried out by health professionals in government hospitals, as it is argued that FGM carried out in a sterile environment, using local or general anaesthetic, makes the practice safer. However, FORWARD believes that a practice which causes unnecessary harm should not be perpetuated or tolerated by health professionals, whose duty is to care and protect. FGM carried out by medical professionals gives a legitimate and acceptable face to a practice which damages women's and girls' reproductive, sexual and psychological health. Performing FGM in sterile conditions does not alleviate the long-term detrimental effects of FGM suffered by so many women.

FORWARD, Female Genital Mutilation: Information Pack, 2002

Areas affected

FGM is known to be practised by some populations in the following countries:⁴⁴

Africa

Egypt, Ethiopia, Nigeria, Kenya, Togo, Senegal, Somalia, Sudan, Central African Republic, Cote d'Ivoire, Eritrea, Mali, Tanzania, Democratic Republic of Congo, Uganda, Mauritania, Burkina Faso, Chad, Niger, Cameroon, Benin, Togo, Ghana, Guinea, Sierra Leone, Liberia, Gambia, Guinea, Guinea Bissau, Kenya, Malawi, Djibouti

Middle East

Yemen, Oman, Iraqi Kurdistan, Israel, Bahrain, Qatar, United Arab Emirates

South East Asia

India, Pakistan, Malaysia, Indonesia, Philippines, Sri Lanka

Latin America

Mexico, Colombia, Brazil, Peru

This list is not intended to be exhaustive.

⁴⁴ FORWARD, Female Genital Mutilation, www.forwarduk.org.uk/key-issues/fgm, FORWARD, Female genital mutilation: Information pack, 2002, Rahman and Toubia, Female Genital Mutilation, A guide to laws and policies worldwide, Zed Books, London and New York, 2000, Dorkenoo, Cutting the rose, Female genital mutilation, the practice and its prevention, Minority Rights Group, London, 1995, Momoh (ed.), Female Genital mutilation, Radcliffe Publishing, Abingdon, 2005

What is FGM?

There are six main types of FGM listed by the World Health Organisation (WHO):

- Type I - excision of the prepuce, with or without excision of part or all of the clitoris;
- Type II - excision of the clitoris with partial or total excision of the labia minora;
- Type III - excision of part or all of the external genitalia and stitching/narrowing of the vaginal opening (infibulation);
- Type IV - pricking, piercing or incising of the clitoris and/or labia; stretching of the clitoris and/or labia; cauterization by burning of the clitoris and surrounding tissue;
- Scraping of tissue surrounding the vaginal orifice (angurya cuts) or cutting of the vagina (gishiri cuts);
- Introduction of corrosive substances or herbs into the vagina to cause bleeding or for the purpose of tightening or narrowing it.⁴⁶

The age at which women and girls are circumcised differs between countries and ethnic groups. Ages range from a couple of days old to adulthood. Women beyond the usual age of practice may also be forcibly submitted to FGM.

Legality

Countries which do not prohibit the practice may consider it as integral to their culture and functioning of society.⁴⁷ Even in countries where the practice is outlawed, the government, law enforcement agencies and society may still support its practice. In many instances those who perform FGM illegally and forcibly go unpunished, and there is little protection for women and girls who do not want to undergo the procedure.

Some countries institute legislation without education campaigns or enforcement initiatives, leaving the legislation ineffective. Older women in particular continue to perform the ritual on women and girls.

Social justification

FGM is justified within practising communities as ensuring women are clean, chaste, to prevent promiscuity – because the procedure makes sex too painful to want casual sex, to be more aesthetically pleasing and to make sex more pleasurable for her husband.

In many cultures there is a fear of women's sexuality, removing her sexual organs and cutting genitalia is an attack on women's sexual autonomy and a means to control her body and behaviours.

FGM can form part of an initiation ritual into womanhood, and may be seen as a rite of passage or an initiation into a secret society of women. Women and girls are sworn to secrecy about what happens to them. In some areas cults and secret societies advocate and promote FGM.⁴⁸ In some cultures women who have not been through this procedure will be considered to have the social status of a child, having consequences for her rights and entitlements.

46 World Health Authority, Female Genital Mutilation, Fact Sheet No 241, June 2000

47 Amnesty International, Annual Report: Gambia, 2000, US Department of State, The Gambia: Report on Female Genital Mutilation (FGM) or Female Genital Cutting (FGC), 2001

48 WLUML, Sierra Leone: FGM used as a weapon of political campaign, available from <http://www.wluml.org/english/newsfulltxt.shtml?cmd%5B157%5D=x-157-197179>

Health consequences

FGM brings immediate and long-term health consequences which include but are not limited to:

Immediate

Severe pain, shock, haemorrhaging (potentially fatal), urine retention, infection from non-sterile instruments, death.⁴⁹ There is concern about possible HIV transmission.⁵⁰

Long term

Psychological damage, painful sexual intercourse, infections, increased risk of vesico- and recto-vaginal fistula, complications during pregnancy and childbirth. The vaginal opening is decreased by infibulation and may form a large hard scar meaning that a husband has to cut his wife's vagina prior to sexual intercourse.⁵¹

Social consequences

FGM is often a prerequisite to marriage; in practising cultures being single may be stigmatised. Social structures mean that women are financially dependent on their husbands or other male relatives. Those women who refuse to undergo FGM may therefore have difficulty in supporting themselves financially.

Women who do not undergo the procedure may be ostracised, seen as unclean, child like and unfit for marriage, forcing them to live outside 'mainstream' society. Where women traditionally tend to domestic affairs and the husband financial, ostracised women can find it hard to support themselves or to be accepted into the community. Having no role within the social structure makes women vulnerable to abuse and exploitation.

"In a community where most women are circumcised, family, friends and neighbours create and an environment in which the practice of circumcision becomes a component of social conformity. Circumcision goes from being a perceived need to a pervasive practice that is necessary for acceptance. In such a context, not circumcising may not be an option. Fear of community judgement, such as men's refusal to marry uncircumcised women, contributes to this pressure."⁵²

Risk on return and internal flight issues

Within many practising cultures integration within society means marriage and to be eligible a woman must submit to FGM. Uncut women may therefore remain on the margins of society. FGM may be performed as a rite of passage into womanhood; this initiation is sometimes performed by secret societies, in such cases members of the community will be aware that a woman is uncut.

It may be argued that a woman can relocate to an area where FGM is not practised; however a woman may not be able to survive without community, family or ethnic group affiliation. A woman without family or male relatives may arouse suspicion and hostility from the new community. Language barriers may prevent integration.

If returned, women may be:

- cut by force
- unable to marry, as FGM can be a prerequisite, leading to social ostracisation
- stigmatised, seen as unclean and promiscuous resulting in further persecution
- unable to integrate
- have the social status of a child
- unable to support herself economically in a patriarchal society without husband/family connections

49 FORWARD, Female Genital Mutilation: Information Pack, 2002

50 World Health Authority, Female Genital Mutilation, Fact Sheet No 241, June 2000

51 FORWARD, Female genital mutilation: Information pack, 2002

52 Rahman and Toubia, Female Genital Mutilation, A Guide to laws and policies worldwide, Zed Books, London and New York, 2000

Honour Crimes

Murder in the name of family 'honour'

Crimes committed in the name of so-called 'honour' are crimes which occur within the framework of collective family structures, in which predominately women are killed for actual or perceived immoral behaviour, which is deemed to have breached the honour codes of a household or community, causing shame.

The underlying purpose of "honour crimes" is to maintain men's power in families and communities by denying women basic – and internationally recognized – rights to make autonomous decisions about issues such as marriage, divorce, and whether and with whom to have sex, in order to control female sexuality and reproductive function. Crimes range from forced marriage, violence and mutilation to murder.

These killings are justified in the name of 'honour'; murderers are believed to have cleansed the shame and may escape censure in their communities. In some countries, there is a lesser sentence for murders justified as a defence of family 'honour'; in others police and the judiciary ignore the laws. Murderers often attempt to justify their actions through appeals to religious belief, culture and tradition and nationalism.

The culture of 'honour' views women as ancillary to men. Women's 'honour' is defined in terms of submissiveness and docility, in following a circumscribed life, where the only acceptable roles for a woman are as a father's virginal property, a man's dutiful wife and the self-sacrificing mother of sons.

Any deviation from the restrictive life-script of virginity, marriage according to the choice of the family and fidelity afterwards is believed to bring shame upon the entire family, a shame which can often only be removed by murder. The 'crime' does not need to have occurred in reality; community gossip and the loss of reputation is enough of a rationale for murder if it implies a loss of virginity or an act of fidelity.

The 'honour' culture is threatened by any act of female autonomy but autonomy within the sphere of sexuality and relationships is the most significant, as the code originates in the commodification and control of women.

*Iranian and Kurdish Women's Rights Organisation, 'Honour' killing: how many more?,
IKWRO/ICAHK Conference 1st December 2006*

Areas affected

Honour crimes are described as endemic within South Asia and the Middle East. Honour crimes predominately affect women from populations in the following countries:⁵³

Middle East

Iran, Iraq, Israel, Jordan, Kuwait, Palestine, Syria, Turkey, United Arab Emirates, Yemen, Lebanon, Saudi Arabia, Oman, Qatar

South East Asia

Pakistan, India, Afghanistan, Bangladesh, Cambodia, Indonesia

Central Asia

Uzbekistan, Kyrgyzstan, Turkmenistan, Tajikistan

Africa

Tunisia, Algeria, Mauritania, Morocco, Somalia, Egypt, Sudan

Latin America

Brazil, Peru

Eastern Europe

Serbia and Montenegro, Albania, Macedonia, Italy

Abuses involving the concept of honour are prevalent throughout the world and are factors in other types of persecution listed in this section, for example FGM and domestic violence.

The above list is not intended to be exhaustive.

What are honour crimes?

Honour crimes may constitute: stoning, abduction, imprisonment, rape, poisoning, acid attacks, disfigurement, forced marriage, murder or self immolation (a form of coerced suicide in which women and girls are left with means to kill themselves such as a rope or gun).

Acts deemed to transgress a family's honour may include having sex before or outside marriage, losing virginity even if as the result of rape (women are seen to have brought it upon themselves), refusing to accept a forced marriage, being suspected of having an affair, attracting gossip amongst the community, seeking education, being assertive and outgoing in behaviour or inappropriate dress.

Victims of rape may be murdered for bringing shame upon their family, or victims may be forced to marry their rapist to appease family honour.⁵⁴

Legality

Controlling women through the concept of honour is not outlawed in many countries. In some countries where honour crimes are illegal, lesser sentences may be given if the crime was committed in the name of honour.⁵⁵

⁵³ Iranian and Kurdish Women's Rights Organisation, 'Honour' killing: how many more?, IKWRO/ICAHK Conference 1st December 2006

⁵⁴ International Campaign Against Honour Killings, document the case of Rojda who was forced to marry her paedophile rapist at the age of 13; when she refused the attempts by her father-in-law, who also raped her, to force her into prostitution, they cut her nose off. <http://www.stophonourkillings.com/index.php?name=coppermine&file=displayimage&meta=topn&cat=0&pos=11>

⁵⁵ Human Rights Watch, Jordan: Victims Jailed in Honor Crime Cases, April 2004, <http://hrw.org/english/docs/2004/04/16/jordan8465.htm>

Health consequences

Honour crimes bring immediate and long-term health consequences which include but are not limited to:

Physical injuries: broken bones, cuts, burns, torn ligaments, pain.

Psychological injuries: living in constant fear amongst multiple possible attackers, including close relatives and primary care givers, PTSD, depression, suicidal ideology.

Social justification

Women are perceived to be the keepers of a family's honour. A woman is considered to bring shame on her family and community if she does not adhere to strict social norms of behaviour and conduct. Honour crimes are acts carried out to 'restore' a family's honour. Perpetrators may be members of her family or community. Bounty hunters, private detectives and social networks may also be used to trace victims and carry out honour crimes.

Women may suffer reprisal attacks due to another relative's perceived behaviour.⁵⁶

Women, as keepers of a family's honour are conditioned to be self-controlled to show deference to men throughout their lives. Women and girls are conditioned to present subservient behaviour. "By the age of five, a girl in rural Pakistan has learnt to 'go outside' as little as possible, and adopt 'an attitude of care and service towards men."⁵⁷

Risk on return and internal flight issues

The family may go to great lengths to pursue women (and men) accused of violating a family's honour. Families employ bounty hunters, private detectives and social networks to pursue victims and will persist over years. In cultures with 'extended family' networks over a large geographical spread, relocation may offer no real protection. In patriarchal societies, women without family or male relatives may alert the suspicion of a new community, attracting further stigmatisation and persecution. It may be difficult for a woman to integrate and support herself economically. In many countries there are few shelters available, and culturally accessing one may be taboo. Women may be at risk of being arrested 'for their own protection'⁵⁸ or prosecuted for adultery (e.g. Pakistan).

56 BBC, Acquittals in Pakistan gang rape, March 2005, http://news.bbc.co.uk/1/hi/world/south_asia/4314153.stm

57 UNICEF, Innocenti Digest, Early Marriage: Child Spouses, No. 7, March 2001, www.unicef-icdc.org/publications/pdf/digest7e.pdf

59 Amnesty International, Afghanistan: 'Women Treated Worse Than Dogs' as Ignorant Judges Fail to Protect Victims and Punish Criminals, October 2004, http://www.amnesty.org.uk/news_details.asp?NewsID=15632

Domestic Violence

“Violence in the home is a violation of women’s right to physical integrity. It can go on for years and may escalate over time. It can cause serious long-term health problems beyond the immediate injury; the physical and psychological impact appears to be cumulative and may persist even when violence stops. Violence in the home is intimidating, degrading and humiliating – it destroys self-esteem....If the state fails to take action to prevent, prosecute and punish these acts, this violence can constitute torture”

Amnesty International, Broken bodies, shattered minds, London, 2001

“Unremedied domestic violence essentially denies women equality before the law and reinforces their subordinate social status. Men use domestic violence to diminish women’s autonomy and sense of self-worth. States that fail to prevent and prosecute domestic violence treat women as second-class citizens and send a clear message that the violence against them is of no concern to the broader society. Countries as diverse as Uganda, Nepal, Pakistan, South Africa, Jordan, Russia, Uzbekistan, and Peru have one thing in common: horrendous records on addressing domestic violence. In Uganda, many women are infected with HIV and will eventually die because the government has failed in any meaningful way to condemn, criminalize, or prosecute violence against women in the home. In Pakistan, officials at all levels of the criminal justice system believe domestic violence is not a matter for criminal courts. In South Africa, the police and courts treat complaints by battered women as less serious than other assault complaints, and there are persistent problems with the provision of medical expertise to courts when women have been abused. In Jordan, “honor killings” occur when families deem women’s behavior improper, and, despite some legislative reforms, the perpetrators receive lenient sentencing before courts. In Russia and Uzbekistan, police scoff at reports of domestic violence, and harass women who report such violence to stop them from filing complaints. In Peru, despite improvements in its domestic violence legislation, the law still does not protect women from marital rape and stalking. Discriminatory attitudes of law enforcement officials, prosecutors, and judges, who often consider domestic violence a “private” matter beyond the reach of the law, reinforce the batterer’s attempts to demean and control his victim. “

Human Rights Watch, Domestic Violence, www.hrw.org/women/domesticviolence.html

Areas affected

Domestic Violence is an endemic and widespread phenomenon, occurring globally amongst communities of every culture, religion, ethnicity and language.

What is domestic violence?

Domestic violence is abuse suffered within the home or community, committed by relatives or community members. A number of the types of violence listed elsewhere in this section can be considered acts of domestic violence e.g. honour crimes and FGM. Because many women are confined to the domestic realm, this tends to be the location of much of their abuse. Some surveys suggest that half of the women, globally, who are murdered are killed by their current or former husbands or partners.⁵⁹

⁵⁹ UNIFEM, Facts and Figures on VAW, www.unifem.org/gender_issues/violence_against_women

Domestic violence may involve physical, emotional/psychological or sexual violence or economic abuse.

Physical violence

Punching, slapping, kicking, dragging, throwing object/weapon, hitting with object/weapon, strangling, burning.

“One day he returned home very late. I asked him “you are so late...where did you go?” He answered, “I went to the red light zone. Do you have any problems with that?” I started shouting at him and he instantly landed a blow on my right eye. I screamed and he grabbed my hair and dragged me from one room to another while constantly kicking and punching me. He did not calm down at that...He undid his belt and then hit me as much and as long as he wanted. Only those who have been hit with a belt know what it is like.”⁶⁰

Emotional/Psychological abuse

Verbal threats to kill or harm, intimidation, insults, humiliation, undermining

Sexual violence

Rape and sexual assault

Economic abuse

Withholding or taking money, withholding a woman’s documentation so she is unable to access support from the state, removal of women’s access to resources such as food, water, clothing

Male partners (or other relatives) may adopt controlling behaviours such as restricting whom a woman may see – friends and birth family, displaying anger if the woman speaks to people of whom the partner disapproves, accusing her of being unfaithful or disobedient, forcing a woman to gain permission to access healthcare or to leave the house, continual criticism and instigating ‘punishments’ for transgressions of his rules about her behaviour, conduct and responsibilities.

Women may suffer frequent abuse, lasting for many years.

Legality

There are many obstacles to reporting abuse, police officers may lack professionalism and view domestic violence as a private issue, refusing to intervene.

“Palestinian police lack the expertise and will to address violence against women in a manner that is effective, sensitive to the needs of the victim and respectful to their privacy. As a result, police officers often turn to informal measures rather than serious investigations... In addition, police often force women to return to their families even when there is a substantial threat of further harm.”⁶¹

Criminal law may not prohibit or proportionately punish violence against women and girls, giving reduced sentences to those who kill or harm women perceived to have violated family honour.

60 Woman interviewed in Bangladesh in WHO Multi-country Study on Women’s Health and Domestic Violence: Summary Report, Geneva, World Health Organisation, 2005

61 Human Rights Watch, occupied Palestinian territories: Authorities must address violence against women and girls, 2006, <http://hrw.org/english/docs/2006/11/07/palab14496.htm>

Where there are no laws specifically against marital rape the law may rely on a common law presumption of consent within marriage.⁶²

In some countries spousal abuse may not be grounds for divorce.

In some countries a husband has the right to prevent his wife from obtaining work or running her own business by citing the interests of the household and the children. This decision can only be overturned by a court decision.⁶³ In Afghanistan it is an imprisonable offence for a woman to run away from her husband.⁶⁴

Health consequences

Domestic violence brings immediate and long-term health consequences which include but are not limited to:

Physical injuries: broken bones, cuts, loss of consciousness, pain, memory loss, dizziness, unwanted pregnancy.

Psychological injuries: mental health problems such as depression, anxiety, PTSD, trauma and stress from living in fear

Social justifications

Many cultures believe in the supremacy of men and the subordination of women in society. Women are taught to be subservient: in many cultures it is often widely accepted for a man to 'punish' or 'correct' a disobedient wife.

In many cultures violence which does not result in serious injury (or death), is accepted as a normal part of marriage.⁶⁵ Family members may condone a husband's violence and encourage arrangements which prioritise the perceived needs of the family over the woman's safety.⁶⁶

WHO research on domestic violence in ten countries found that escaping to a shelter was mentioned by respondents from just two countries and in these cases shelters were used very few times (by less than the 1% of women who left). The report goes on to state that "these patterns are likely to reflect both the availability of places of safety for women and their children, and culturally specific factors relating to the acceptability of women leaving, or staying anywhere without their partner."⁶⁷

Limited services, social stigma, fear of further violence, reprisals, bringing shame to the family, fear of not being believed, a lack of economic dependence and inappropriate police response makes it difficult for women to leave violent relationships and seek protection.

62 Human Rights Watch, *Just Die Quietly: Domestic Violence and Women's Vulnerability to HIV in Uganda*, 2003

63 Centre for Reproductive Rights, *Women of the World: laws and policies affecting their reproductive lives*, 2003

64 Amnesty International, *Afghanistan: 'Women Treated Worse Than Dogs' as Ignorant Judges Fail to Protect Victims and Punish Criminals*, October 2004

65 Human Rights Watch, *Just Die Quietly: Domestic Violence and Women's Vulnerability to HIV in Uganda*, 2003

66 WHO Multi-country Study on Women's Health and Domestic Violence: Summary report, Geneva, World Health Organisation, 2005

67 WHO Multi-country Study on Women's Health and Domestic Violence: Summary report, Geneva, World Health Organisation, 2005

Risks on return and internal flight

If returned, a woman may be:

- unable to support herself
- unable to access shelters
- at risk of reprisals for bringing dishonour
- unable to divorce
- at risk of losing custody of children

Trafficking

Trafficking in persons — the illegal and highly profitable recruitment, transport, or sale of human beings for the purpose of exploiting their labor — is a slavery-like practice that must be eliminated. The trafficking of women and children into bonded sweatshop labor, forced marriage, forced prostitution, domestic servitude, and other kinds of work is a global phenomenon. Traffickers use coercive tactics including deception, fraud, intimidation, isolation, threat and use of physical force, and/or debt bondage to control their victims. Women are typically recruited with promises of good jobs in other countries or provinces, and, lacking better options at home, agree to migrate. Through agents and brokers who arrange the travel and job placements, women are escorted to their destinations and delivered to the employers. Upon reaching their destinations, some women learn that they have been deceived about the nature of the work they will do; most have been lied to about the financial arrangements and conditions of their employment; and all find themselves in coercive and abusive situations from which escape is both difficult and dangerous.

*Human Rights Watch, Campaign Against the Trafficking of Women and Girls, 2006,
<http://www.hrw.org/about/projects/traffcamp/intro.html>*

Areas affected

Women from 127 countries have been documented as being trafficked.⁶⁸

Trafficking affects women from populations throughout Africa, Asia, Central and Eastern Europe, Middle East, Caribbean and Latin America.

What is trafficking?

Trafficking is defined as

“Trafficking in persons” shall mean the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs.”⁶⁹

68 UNIFEM, Facts and Figures on VAW, Trafficking in Women and Girls, www.unifem.org/gender_issues

69 Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime

Anti Slavery summarises trafficking as activity involving the following elements:

- Recruitment, transportation, transferring, harbouring or receipt of person
- Means of threat, use of force, coercion, abduction, fraud, deception, etc
- Purpose or act of exploitation, including sexual exploitation, forced labour, slavery and slavery-like practices.⁷⁰

Trafficked women are bought and sold as commodities; they are held against their will and subjected to sexual slavery, forced labour or forced marriage, for the profit of their trafficker. Traffickers use various control mechanisms including repeated rape by the agent and his associates to erode a girl's sense of 'self' and to break her will. Agents will use physical and psychological abuse against the victim and make threats towards her family. Agents create debt bondage by imposing debts for the journey accommodation, clothes and make-up. Women will be 'imprisoned' and isolated by their traffickers. Agents withhold passports and identity papers; a woman's status is often as an illegal entrant she may fear police and immigration officials. Women may believe that the law enforcement agencies are complicit in the trafficking of women. Traffickers also instil this fear to deter escape.

Trafficking differs from smuggling. A smuggler's relationship with the client ends on arrival at a destination, in trafficking a relationship with the victim is maintained based upon abuse and enslavement. Smugglers take people across borders whereas traffickers may operate within national boundaries as well as international. Trafficking is operated through violent and organised crime networks spanning international borders.

Women are lured into trafficking in different ways, often by deception or force. Women may be made false promises of jobs as nannies, waitresses etc through bogus recruitment agencies, only to discover on route or arrival that they have been deceived. The trafficker may pretend to be romantically interested in a woman, developing a coercive relationship in which the woman finds that her 'boyfriend' forces her to have sex with his 'friends'. Women may be drugged and abducted. Some girls are trafficked with family involvement. Parents may believe that they are sending their child to receive an education however some parents are aware that they are selling their child into slavery.

Sex slavery

Women subject to sexual abuse endure acts including: vaginal, anal and oral rape, gang rape, sex without lubricants, sex during menstruation, forced unprotected sex, sex accompanied by violent or degrading rituals, forced participation in or exposure to pornography.⁷¹ They might be raped by 20-50 clients a day, with no choice about sexual practice or protection from sexually transmitted diseases. Women are subjected to extreme violence by the traffickers and clients.

A woman may be a sex worker in her country of origin and be willing to do the same work in another country, however she may be deceived as to the level of control the traffickers have over her. Passports will be withheld and debt bondage created.

70 Anti-Slavery International, (2005) Protocol for Identification and Assistance to Trafficked Persons and Training Kit

71 Zimmerman, C., Yun, K., Shvab, I., Watts, C., Trappolin, L., Treppete, M., Bimbi, F., Adams, B., Jiraporn, S., Beci, L., Albrecht, M., Bindel, J., and Regan, L. (2003), The Health risks and consequences of trafficking in women and adolescents; Findings from a European study. London, London School of Hygiene and Tropical Medicine.

The Poppy Project, When women are trafficked: Quantifying the gendered experience of trafficking in the UK, 2004

The presence of peace-keeping forces in a country of origin may put women at greater risk. Senior UN officials have noted the correlation between peace keeping forces and an increase in trafficking activities.⁷²

Forced labour

Women are trafficked to work as domestic slaves and as forced labour within agriculture, catering, retail and manufacturing industries in the UK. Many women forced to work against their will in households and in industry live in appalling conditions, receive no pay and are subjected to sexual and physical abuse.

Trafficked women are subjected to extreme physical abuse: punched, kicked, cut, beaten with objects, burnt, thrown from moving vehicles, locked in confined spaces (such as boots of cars) and threatened with firearms.

Legality

Trafficked women are victims of human rights violations.

In countries where there is anti-trafficking legislation, implementation may be a problem due to the lack of identification that a person has been trafficked and therefore has been subjected to gross human rights violations. Often victims themselves are criminalised in relation to immigration or sex work offences.

Criminalised women are likely to remain unaware of their rights and unable to access any assistance which may be afforded to them by law. The United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children affords the following core protection to trafficked people:

- Temporary or permanent residence permit
- Appropriate housing
- Information and counselling (with particular regard to their legal rights)
- Medical, psychological and material assistance
- Employment, education and training opportunities, opportunities for legal redress and compensation
- Due regard to their safety when carrying out return, which should preferably be voluntary⁷³

Social justification/consequences

Trafficking is prevalent because it is a high-profit, low-risk crime. Key figures are often not arrested,⁷⁴ increasing an escaped victim's actual and perceived vulnerability, those investigations which are carried out into trafficking are often based on the victim's complaint.⁷⁵ In many countries the extent of trafficking is not recognised, meaning that it is not adequately investigated.⁷⁶

In her home community rape may bring shame to the victim, who may be ostracised, many families will not accept their daughter back into the family home, making rehabilitation extremely difficult.

72 BBC Radio, 'File on 4' Programme no.02VY3021LHO, Reporter Jenny Cunliffe, broadcast on 21 May 2002 at 20.00

73 Anti-Slavery International, (2005) Protocol for Identification and Assistance to Trafficked Persons and Training Kit

74 IRIN, Shelter tries to rehabilitate victims of human trafficking, 5th September 2007, www.irinnews.org

75 Anti-Slavery International, (2005) Protocol for Identification and Assistance to Trafficked Persons and Training Kit

76 The Guardian, Has anyone see our child?, 23 September 2007, <http://observer.guardian.co.uk/magazine/story/0,,2173231,00.html>

In her home community rape may bring shame to the victim, who may be ostracised, many families will not accept their daughter back into the family home, making rehabilitation extremely difficult.

If deported a woman is at risk of being re trafficked by original recruiters, or people connected to her original recruiters, including members of her family.⁷⁷

Women particularly vulnerable to trafficking if they are subject to cultural and social repression, poverty, lack of education or lack of local employment opportunities.

Health consequences

Trafficking brings immediate and long-term health consequences which include but are not limited to:

Immediate

Broken bones, cuts, burns, loss of consciousness, headaches, pain

Long term

Dermatological problems, gastrointestinal problems, complications from abortions, cervical abnormalities and gynaecological problems, psychological trauma of experiencing repeated rape and sexualised violence, PTSD, Suicidal ideology, depression.

The majority of injuries and illnesses reported within a European study were the result of physical and sexual abuse, “women were beaten, raped and deprived of sleep, food, and other basic necessities, leading to fatigue, weight loss, and vulnerability to infection.”⁷⁸ Traffickers often prevent women from accessing health care.

Risks on return and internal flight

If returned, a woman may be:

- Retrafficked
- Experience extreme difficulties in reintegrating and supporting herself economically
- Be unable to access health and psycho-social services

Forced and Early Marriage

“A forced marriage is one carried out in the absence of valid consent by one party or both parties and in which duress – either physical or psychological – is a factor. It is not to be confused with an arranged marriage, which is entered into freely by both people, though their families may take a leading role in the choice of partner. Forced marriage is a clear abuse of human rights and a form of domestic violence. Its perpetrators are often members of the victim’s immediately family; frequently, the wider family and community are also closely involved. It is often secret, unseen and unreported.”

Liberty, Liberty’s briefing: Forced Marriage (Civil protection) Bill, January 2007

77 The Poppy Project, When women are trafficked: Quantifying the gendered experience of trafficking in the UK, 2004. IRIN, Shelter tries to rehabilitate victims of human trafficking, 5th September 2007, www.irinnews.org

78 Zimmerman, C., et al. (2003), The Health risks and consequences of trafficking in women and adolescents; Findings from a European study. London, London School of Hygiene and Tropical Medicine

"Make no mistake, a 'marriage' ceremony may excuse this crime in the eyes of the criminals, but rape is at the heart of it: and not just rape, but repeated rape, rape for the duration of the marriage; not just repeated rape, but the forced childbearing of a rapist's children; effective sexual slavery. Forced marriage is a brutal violation of human freedom in itself, and correlates highly with domestic violence and 'honour' crime; all springing from a patriarchal code of values that regards women as commodities to be sold, bartered or exchanged."

*International Campaign Against Honour Killings, Forced marriage or arranged rape,
<http://www.stophonourkillings.com/index.php?name=Content&pid=18>*

Areas affected

Forced and early marriage are practised in areas where concepts of family honour are strong. Areas include but are not limited to:

Middle East, South East Asia, Central Asia and Africa.

What is forced marriage?

In a forced marriage women (and men) are not free to marry someone of their choice. Family members are complicit in the forced marriage in which women are treated as commodities.

Women will be legally bound to a husband and expected to perform the role of a wife, including forced sexual relations, and child bearing/rearing. Forced marriage condones violence against women in the form of serial spousal rape and domestic violence. To bring a woman to a forced marriage perpetrators may use psychological abuse and emotional blackmail, physical abuse, abduction and domestic imprisonment.

The practice of bride price exacerbates the problem. This sum is paid by a man to the family of the wife-to-be; often the figure is very high compared to the average income, raising expectations for her conformity. In countries and communities affected by conflict or severe economic depression, the bride price may become a means of survival, and girls are sold by their parents to the highest bidder.

Forced marriage also affects women and girls' reproductive rights; they may suffer forced abortions or forced pregnancies.

Legality

In some countries practices such as kidnapping women for forced marriage are illegal, but often go unpunished. Forcing women into marriage may be viewed culturally and by government and law enforcement officials as a useful tradition rather than as a violent crime.⁷⁹ It may be considered a 'private' issue in which authorities may be reluctant to intervene.

⁷⁹ Human Rights Watch, *Reconciled to Violence: State failure to stop domestic abuse and abduction of women in Kyrgyzstan*, 2006

In Cameroon, Jordan, Morocco, Uganda and Yemen women are not granted in law the right to 'full free and informed consent' to their marriage.⁸⁰

In Algeria, Chad, Costa Rica, Lebanon, Libya, Romania and Uruguay the law allows the perpetrator of rape including statutory rape of a minor, to be excused of his crime if he marries the victim.⁸¹ In other countries the same practice is used to restore honour to a victim's family.

Social justification

Forced marriage may be culturally justified by concepts of honour and family prestige, or to pass on responsibility if a child is disabled, or to force lesbians to alter their sexual orientation.

Forced marriage can be a means for traffickers to exercise control and coerce their victims into prostitution or slavery.

Culturally women may be seen as possessions and property that relatives can deal with however they like.⁸²

Health consequences

Forced marriage brings immediate and long-term health consequences which include but are not limited to:

Physical injuries: associated with domestic violence (see p29)

Psychological injuries: trauma of being held against her will and subjected to rape and violence, mental health issues such as depression.

To escape forced and early marriage women and girls may try to commit suicide, including setting themselves alight by dousing themselves with fuel.⁸³

Risk on return and internal flight issues

A woman leaving a forced marriage may be perceived to have damaged the family's honour. A woman may be at risk of threats from family and community perpetrators, rejection and stigma. A woman may be risk of being forced into further marriage to prevent another escape. The payment of a dowry or bride price may be an incentive for a family to retrieve the 'wife as property'. A woman may experience stigma for being a separated or lone woman, this carries risks due to the perception that she must have brought shame onto herself and family.

80 UNICEF, Innocenti Digest, Early Marriage: Child Spouses, No. 7, March 2001, <http://www.unicef.org/publications/pdf/digest7e.pdf>

81 UNICEF, Innocenti Digest, Early Marriage: Child Spouses, No. 7, March 2001, <http://www.unicef.org/publications/pdf/digest7e.pdf>

82 AFP, Settling debts, raising cash with Afghan girls, 15 May 2007, <http://www.metimes.com/storyview.php?StoryID=20070515-054815-5981r>

83 BBC News, Pain of Afghan Suicide, 2 December 2006, news.bbc.co.uk/1/hi/world/south_asia/6196716.stm

Early marriage

Areas affected

Areas include but are not limited to:

South East Asia

India, Pakistan, Bangladesh, Nepal

Africa

Niger, Chad, Mali, Mozambique, Uganda, Cameroon, Guinea, Burkina Faso, Central African Republic, Congo, Cote D'Ivoire, Lesotho, Liberia, Mali, Nigeria

What is early marriage?

"A girl should have her first period in her husband's house and not her father's house" - Afghani proverb.⁸⁴

In some regions girls are forced into marriage as young as eight years old. Under age girls may be forced into marriage with men 40 years their senior. Girls forced into marriage are sexually assaulted and raped. In many areas where early marriage is practised it is illegal, however men break the law with impunity as criminal charges are rarely brought, especially within rural areas.⁸⁵ Early marriage violates the right to bodily integrity, freedom from torture, choice over reproduction, the right to development and an education.

Girls may be traded as commodities and currency to settle disputes ranging from debts, blood feuds and murder.⁸⁶

Early marriage and rape may lead to early childbirth which poses health risks for under developed girls.

Girls are isolated and have restricted social mobility. Forced marriage means confinement to the home and domestic chores and child rearing which takes them away from education. Girls who try to escape their husband by returning to their families may be beaten and sent back.

Because young girls are often forced to marry men several decades older than them, they are likely to become widows at a relatively early age. Under customary practice the girl may then be given to another close relative of her husband in marriage, in some cultures as a widow she may become the common property of all the men in the family.⁸⁷

Legality

In some countries more than 50% of girls are married before the legal age.⁸⁸

84 Amnesty International, Forced and child marriage is a violation of girls and women's sexual and reproductive rights, http://web.amnesty.org/actforwomen/sexual_and_reproductive_rights1-eng

85 AFP, Settling debts, raising cash with Afghan girls, 15 May 2007, <http://www.metimes.com/storyview.php?StoryID=20070515-054815-5981r>. Amnesty International, Forced and child marriage is a violation of girls and women's sexual and reproductive rights, http://web.amnesty.org/actforwomen/sexual_and_reproductive_rights1-eng

86 Associated Press, Girls traded and sold into debt, July 2007, http://www.usatoday.com/news/world/2007-07-09-afghan-girls_N.htm or <http://www.wtopnews.com/index.php?nid=385&pid=0&sid=1183899&page=2>

87 UNICEF, Innoceti Digest, Early Marriage: Child Spouses, No. 7, March 2001, <http://www.unicef.org/publications/pdf/digest7e.pdf>

88 AFP, Settling debts, raising cash with Afghan girls, 15 May 2007, <http://www.metimes.com/storyview.php?StoryID=20070515-054815-5981r>. Reuters, A U.N. women's forum urged the world on Friday to ban female genital mutilation and forced marriages, 9 March 2007, posted on http://www.peacewomen.org/news/International/March07/UN_FGM.html

Even in countries which prohibit early marriage through civil or common law, the practice may be condoned by customary and religious laws, especially where marriages are performed through customary rites and remain unregistered. In many countries with laws regulating minimum age and consent, laws are not applied and few prosecutions are brought against parents, officiators or spouses. In addition some laws do not specify sanctions other than to declare the marriage invalid. Often these laws do not apply to customary marriages.⁸⁹ Women and girls may be reluctant to report cases as to do so involves incriminating their family members.

Social justifications

Family honour is regulated through the control of sexuality and the fear of loss of virginity before marriage. Some parents subject their children to early marriage to ensure their daughters virginity on entering marriage or to gain financial and social benefits. Families experiencing poverty may believe that early marriage will protect their daughter by ensuring she has a provider. In some areas girls from poor families are 'married' off to older men via brokers where they suffer sexual and domestic slavery under the status of being a 'wife'.⁹⁰

In conflict areas parents may offer their daughters in marriage to militia members in order to secure protection for themselves and the girl.⁹¹

Health consequences

Early marriage brings immediate and long-term health consequences which include but are not limited to:

Girls are at increased risk of maternal and neonatal mortality⁹². Girls aged between 10 – 14 are five times as likely to die during childbirth than those aged 20 – 24, and those aged 15 – 19 are twice as likely to die.⁹³

Girls are at increased risk of obstructed labour and Vesico-vaginal fistula.

See also injuries associated with domestic violence on p29.

Risks on return and internal flight

If returned, a woman/girl may be:

- Vulnerable to exploitation without family support or social networks
- Unable to support herself
- Unable to access shelters or accommodation
- Pursued by family to avenge honour or to reclaim woman due to bride price
- Unable to divorce

89 UNICEF, Innoceti Digest, Early Marriage: Child Spouses, No. 7, March 2001, <http://www.uniceficdc.org/publications/pdf/digest7e.pdf>

90 UNICEF, Innoceti Digest, Early Marriage: Child Spouses, No. 7, March 2001, <http://www.uniceficdc.org/publications/pdf/digest7e.pdf>

91 UNICEF, Innoceti Digest, Early Marriage: Child Spouses, No. 7, March 2001, <http://www.uniceficdc.org/publications/pdf/digest7e.pdf>

92 UNICEF, Early Marriage Strips Children, Especially Girls, of their Childhood, www.unicef.org/sowc06/profiles/marriage.php

93 UNFPA, Child Marriage Fact Sheet.

Rape and Sexual Violence

Rape can occur anywhere, even in the family, where it can take the form of marital rape or incest. It occurs in the community, where a woman can fall prey to any abuser. It also occurs in situations of armed conflict and in refugee camps.... Violence against women by the very people who are supposed to protect them - members of the law enforcement and criminal justice systems - is widespread. Women are physically or verbally abused; they also suffer sexual and physical torture. According to Amnesty International, thousands of women held in custody are routinely raped in police detention centres worldwide Rape has been widely used as a weapon of war whenever armed conflicts arise between different parties. It has been used all over the world.

*United Nations: The work of the Special Rapporteur on violence against women, February 1996
<http://www.un.org/rights/dpi1772e.htm>*

Areas affected

Rape is a worldwide phenomenon, occurring within all cultures, ethnic and religious groups.

What is rape?

Rape occurs when a woman is forced to have sexual intercourse without her consent. In addition to penetration by a man's penis, bottles, sticks, knives and guns are examples of objects used to rape women. Astringent herbs or caustic crystals may also be used, drying the vagina and causing intense pain. Bleeding is likely to be profuse and some women subjected to this treatment may die.⁹⁴

Women may be raped in front of children, family and community to humiliate the community and the woman. There may be deliberate attempts to impregnate women of different ethnic origins or transmit HIV. Women are considered keepers of honour; therefore attacks on women may be symbolic attacks on the community.

Legality

Rape and sexual violence are used as methods of torture against women, particularly during armed conflict. Soldiers often rape with impunity.

In times of conflict or post conflict perpetrators include community members, rebels, militia, police, security forces, rival political factions, UN Peace Keepers and others mandated to protect civilians and displaced people.

In some countries women are held responsible for violence against them; the legal system and community attitudes compound the trauma of rape survivors. Police officers may refuse to investigate, or they may protect male perpetrators. Under Islamic law the concept of Zina requires four male witnesses to support a woman's claim of rape; otherwise a woman may find herself accused of adultery.⁹⁵ There may be a culture of blame towards the woman.⁹⁶

94 Michael Peel (ed), Rape as a method of torture, Medical Foundation for the Care of Victims of Torture, London, 2004

95 Women Living Under Muslim Laws, Pakistan, Women's Protection Bill a Farce, 19 September 2006, www.wluml.org/english/newsfulltxt.shtml?cmd%5B157%5D=x-157-543745

96 Women Living Under Muslim Laws, Pakistan: Police removes victim of gang rape from safe house, July 2007, www.wluml.org/english/newsfulltxt.shtml?cmd%5B157%5D=x-157-554373

In some countries criminal law excuses rapists from facing criminal prosecution if they agree to marry their victim.⁹⁷ “When questioned, many [police officers] were unapologetic about their efforts to encourage marriage between a rapist and his victim, sometimes with the assistance of influential clan leaders. They see intervention as a means of “solving” these cases.”⁹⁸

Social justification

Violence often targets a woman’s sexuality, which is socially and politically controlled through society. The violence meted out not only triggers trauma but also deep shame. Once shame is triggered women are easier to control and subvert. This is a very deliberate strategy to punish and control, constituting “the political use of sexuality in the service of repression”⁹⁹

In many societies, the woman is the keeper of honour. By violating her sexuality, a whole community can be shamed and controlled. Hence the use of rape as a weapon of war. Violence is also used to force individual women into submission predominantly by shaming them and leading society to ostracise them and increase their vulnerability.

Risk on return and internal flight

If returned, a woman may be:

- Vulnerable to exploitation as a victim of rape
- Suffer stigmatisation
- Unable to integrate
- At risk of reprisals from her family or community for perceived crimes against honour
- Without a male protector
- Accused of/charged with adultery
- Unable to access health and psycho-social support services.

Sexual orientation

Throughout the world, sexual rights and lesbian, gay, bisexual and transgender rights defenders face persecution by governments and those acting with its authority. In addition, they must regularly and consistently grapple with the persistence and powerful impact of persecution of women and women’s human rights defenders within their families and communities – including strategies of humiliation, charges that they are traitors, immoral, indecent or crazy, as well as various forms of gender-specific persecution targeted at women who are human rights defenders. One especially vicious form of this has been termed “sexuality-baiting” and it frequently comes in the form of sexuality-based attacks by the government, the media, health care institutions and the criminal justice system, as well as our families and communities who all too often fear their human rights work and condemn and abuse them personally. Sexual rights and LGBT rights advocates may be locked up in their homes, held in so-called “protective custody,” incarcerated in psychiatric institutions,

97 Human Rights Watch, A Question of Security: Violence Against Palestinian Women and Girls, 2006, <http://hrw.org/reports/2006/opt1106/opt1106sumandrecs.pdf>

98 Human Rights Watch, occupied Palestinian territories: Authorities must address violence against women and girls, 2006, <http://hrw.org/english/docs/2006/11/07/palab14496.htm>

99 Inger Agger, The Blue Room; Trauma and Testimony among Refugee Women, A Psycho-Social Exploration. Zed, London 1994.

, forced into marriage, or forced into pregnancy among a host of other abuses. Their offices are attacked, their organizations are tainted in the media, and their family members are refused jobs or terrorized.

When they speak up, take action and demand change, they challenge social and cultural norms of what women and men are supposed to be. This is even more the case when, with their bodies, they challenge the very idea that spectrum of gender is composed only of female and male, and that these are permanent and fixed gender identities. As the former UN Special Rapporteur on Violence Against Women, Radhika Coomaraswamy commented in one of her 2002 reports, the cost of transgressing these rigid gender roles can be severe. She noted, "Gender-based violence is rooted in the social construct of what it means to be either male or female. When a person deviates from what is considered "normal" behavior they are targeted for violence."...

At the same time, a country's domestic protections against discrimination may still offer minimal safeguards to local lesbian, gay, bisexual, or transgender victims of violence because they cannot uproot otherwise entrenched hatred and prejudice. Police or communities may still be driven by hatred despite the law. Prejudice may prevent officials from offering protection or from investigating crimes of hatred. Sometimes state actors are directly responsible for perpetrating the abuse, as in the case of heads of state who undertake campaigns of "state-sponsored homophobia." In other cases, non-state actors perpetrate the abuse, with full knowledge that the criminal justice system will not hold them accountable.

International Gay and Lesbian Human Rights Commission, The situation of Lesbian, gay, Bisexual and transgender and Intersex rights defenders, 2005

How are women persecuted on the basis of sexual orientation?

In many countries lesbians are at risk of intimidation, verbal and physical abuse. They are at risk from family, community members and government officials. Women have been forced out of their jobs and homes, raped, beaten and killed for being lesbians.¹⁰⁰ Due to stigma and persecution it is not unusual for lesbians to be married and have children.

Due to a lack of cultural or legal prohibition on discriminating against homosexuals government and media campaigns are often instigated against lesbians inciting hatred, girls may be targeted for harassment in schools.¹⁰¹

¹⁰⁰Women's Enews, Lesbian Activists in Jamaica tell horror stories, 3rd September 2005, available from www.womensenews.org

¹⁰¹Amnesty International, 'Crimes of hate, conspiracy of silence: Torture and ill treatment based on sexual identity, June 2001, Behind the Mask, persecution of lesbians and Gay Men Intensifies in Uganda, 29 November 2004, available from www.iglhrc.org. Behind the mask, 'schoolgirl commits suicide', 12 December 2003 http://www.mask.org.za/SECTIONS/AfricaPerCountry/ABC/uganda/uganda_47.htm

Lesbians may be subject to treatment or punishment to 'correct' their sexual orientation without any judicial process. In some countries homosexuality is considered a psychological disorder and lesbians may be subject to forced hospital treatment attempting to alter their sexual orientation.¹⁰² Whereas male homosexual behaviour is likely to be punished in law, "research has shown that lesbians are more likely to be subjected to psychiatric "treatment" on the grounds that their sexuality is considered pathological rather than criminal. This may include mind-altering medicines, electro-convulsive therapy and other ill-treatment,"¹⁰³ some countries use 're-education' camps.

Legality

Homosexuality is criminalised in many countries, and may carry sentences ranging from lashes, imprisonment and execution. Gender reassignment (sex change) may also be illegal. Many countries do not have anti-discrimination laws to protect homosexuals.¹⁰⁴ The absence of laws criminalising homosexuality, or making specific reference to lesbians, does not necessarily safeguard the rights of lesbians.¹⁰⁵ Lesbians may be imprisoned under charges such as 'hooliganism' or 'unruly behaviour'. Lesbians may experience harassment based solely on their sexual orientation.

Social justification

Lesbianism may be considered unnatural and a threat to patriarchal social systems as it does not fit within established social patterns or gender roles. Lesbians may be threatened with rape, as a 'cure' for their condition, forced into marriage or forced to remain within the household where relatives can control her activity. Religious organisations, the government and the media may collude with promoting or tolerating discriminatory attitudes towards lesbians and male homosexuals.

Many women do not want to report attacks for fear of identifying themselves as lesbians and attracting further discrimination.

Risk on return

Lesbians may experience extreme ostracisation, and be vulnerable to abuse and exploitation:

- Violence and intimidation from family and community
- Rejection and isolation from family and community
- Reprisals for being perceived to have violated family/community honour
- Unable to integrate, find accommodation and employment
- Unable to support self

102 Amnesty International, *Breaking the Silence: Human rights violations based on sexual orientation*, London 1997

103 Amnesty International, *Breaking the Silence: Human rights violations based on sexual orientation*, London 1997

104 Amnesty International, *Sexual Minorities and the law; A world survey* (Updated 2006), <http://www.ai-lgbt.org/texts/lgbt2006.rtf>

105 Amnesty International, *Breaking the Silence: Human rights violations based on sexual orientation*, London 1997

Section 4

Research strategy

Case research

Case research is the process of identifying appropriate country information to support an individual asylum or human rights claim. Case research is generally desk-based, involving collecting and analysing material from published and publicly available reports and statistics. Most information is researched using online databases and internet search engines. Reference is occasionally still made to paper based sources. Case research can also involve liaising with organisations, country experts and individuals with extensive knowledge of their field for signposting references.

Case research relies on an understanding of types of harm and human rights violations, knowledge of research sources and a rigorous assessment of the quality of sources. Case research, using country of origin information, seeks to document whether a claimant has ‘a well founded fear’ of persecution. It requires a continuous flow of the latest quality information available on the human rights situation for women in countries of origin. In areas where there is conflict and human rights violations circumstances can change very quickly, meaning information can soon become out of date.

Working directly with women

Because there is a large number of women applicants without legal representation, many volunteers are involved with researching women’s cases. The following applies whether or not the woman you’re working with has a legal representative.

All details of a client’s claim must be kept confidential. Nothing that could identify your client should be shared with any third party without the client’s permission.

Explain to your client that you are a researcher, and that no information you give should be taken as legal advice.¹⁰⁶ Explain to the client what you will do with the information you find, i.e. whether you’ll pass it on directly to them or their legal representative (if they have one) and in what format it will be presented. Inform the client and their legal representative of time frames for the research and also of the limitations of the research.

Example research enquiries

The following are examples of research enquiries received by RWRP from legal representatives and women using our services directly.

Pakistan – Domestic Violence

Our client fled Pakistan due to domestic violence, she is pregnant. Husband is wealthy locally. He says the child is not his and that his wife has committed adultery. He told local police that his wife stole jewellery and money from him. There is an arrest warrant out for her in Lahore and Islamabad. Asylum claim refused by Home Office, Immigration Judge and application to reconsider Immigration Judges decision was dismissed. Judge’s view is that, she received help and support from her family when she fled husband including help to escape the country, therefore they will support her to get justice and a safe house elsewhere in the country

¹⁰⁶ It is useful to put a disclaimer on any written work stating this.

Northern Iraq- Honour Crimes

Our client had previously been married to a PUK activist who was murdered by the KDP. Many years later she began a relationship with a communist who was a member of the IWCP. She became pregnant and wanted to marry him but could not do so without the permission of her first husband's family, who refused because of his political affiliation. She had an abortion which became known to her brother. She received threats from her first husband's family.

Uganda – Sexual Orientation

I am acting for an unaccompanied minor from Uganda whose basis of claim is that she was persecuted for being a lesbian. Her asylum claim has been refused and we are currently in the process of preparing her appeal. I am desperate to locate an expert who could comment specifically on lesbianism in Uganda. The objective evidence indicates that lesbianism is not illegal in Uganda and there is very little evidence that I could locate indication societal discrimination – at present it seems that attacks have escalated but more so towards gay men. Would be grateful of any assistance.

Gambia – FGM

Our client is 18 years old. She fled to the UK after her father died. Her father was against FGM and protected her from being subject to it. While father was alive family members tried to convince him to submit her to FGM, client experienced name calling. Her friends and family opposed her interest in western culture. Since his death family members have put pressure on her to undergo FGM. She was approached by family members to have an arranged marriage and is therefore being pressured to undergo FGM first.

Strategy, aims and objectives

In researching individual cases and COI reports there needs to be an assessment of what information is required to fulfil the purposes of the research. There should be an analysis of what questions need to be set in order to provide comprehensive information and of the sources to be consulted to achieve this.

A research strategy sets out steps for this process. Following a methodology strengthens the reliability and consistency of your research. A strategy can be tailored to organisational needs but should cover the following basic aims and objectives.

The application of COI has four core aims concerning credibility, risk of harm and the possibility of relocating to another area of the country:

- To ascertain the plausibility of the client's account of events with reference to conditions in the country of origin
- To help substantiate the client's assertion that she is at risk of harm
- To demonstrate whether internal relocation is a valid option
- To demonstrate whether current country conditions violate minimum standards and therefore whether return is feasible

Individual case research

The aim of the research strategy for individual case research is to produce targeted objective research specific to a client's claim, using relevant, accurate, up to date information from reliable sources presented in a transparent and traceable manner.

Research should cover materials in relation to:

- a) Women's individual circumstances
- b) The nature of a harm and its impact on women
- c) The state protection available in theory and reality
- d) Plausibility of internal relocation

The following paragraphs offer a strategy overview for researching individual cases, points raised in 'Identifying research questions arising from claim' and 'Identifying and evaluating COI' are covered in more detail in later sections.

1. Aim: Identifying research questions arising from claim

Consider: What research questions do we need to ask in order to find information to address types of harm and levels of risk?

a) Establish details of claim

In order to provide information specific to a woman's individual circumstances and the nature of harm experienced or feared you need to establish details of the claim. This can be obtained through an interview with the client, analysis from their legal representative or the client's Statement of Evidence Form (SEF). See 'individual circumstances' below for specific details to pick up from the interview.

In instances of first applications and fresh claims, if you're working directly with a woman ask her for details of her claim, or liaise with her legal representative if she has one, to establish key issues that the representative aims to pursue and areas that need researching.

b) Identify what research questions claim raises

In identifying research questions which arise from a claim you need to consider a client's individual circumstances: age, ethnicity, religion, language, nationality, area of residence, marital status, dependants, occupation and education. In addition you should consider questions which investigate issues concerning the law in theory and reality, risk on return, internal flight alternatives and the socio-cultural context (including patriarchal, clan and honour-based cultures).

See also Aim 3 and 'Generic gender specific case research questions to consider'.

Outcome: Research questions formulated to address specific issues raised by client's claim

2. Aim: Countering Home Office/judicial application of COI

Consider: Consider whether country conditions differ from those presented within Home Office and judicial information and decisions

a) Assess what government/judicial information states on the issues with particular reference to COIS reports.

Consult the most recent COIS report for your client's country of origin. Home Office caseworkers and immigration judges will place a high weight on this information in decision-making. Note the sources used, and attempt to find information which is more up-to date and sources offering alternative views or additional information. Consult the original sources referenced by the COIS reports to assess whether they have been used in context or whether selective use has been made of the source.

b) Assess what Home Office/judicial decision makers have determined, with reference to the Reason for Refusal Letter (RFRL), determination and Country Guideline cases.

If your research relates to a claim which has been refused and is on appeal, much of your research will be to counter sources and analysis made by Home Office and judicial decisions. To counter this you will need to refer to the Reason For Refusal Letter (RFRL) or the determination. RFRL letters set out the Home Office's reasons for refusing the case and will refer to evidence used to reach this decision, including reference to country information. The determination will also reference any evidence used to refuse a case.

Country Guideline cases will tell you how a judge is likely to view information. The judge will not be able to deviate from this guidance unless he can justify it. Consider whether country conditions differ to those presented in the latest relevant Country Guidelines. The aim of your research is to find information that is additional or contrary to the findings of the Country Guideline case.

Outcome: Research issues to challenge government and judicial information

3. Aim: Establishing any potential risks on return and reasons why relocation is not feasible

Consider: Why would your client be at risk if returned and what might happen to them?
Would your client be able to integrate and support herself in another area of the country?

a) Consider what issues may affect your client if returned or in relocating, with reference to the RFRL or determination which may state why the Home Office or Immigration judge considers it safe for your client to return. Your research will attempt to counter this view and find contrary information.

See 'Identifying research questions arising from claim'

Outcome: Research issues in relation to the plausibility of return or Internal Flight Alternatives

4. Aim: Identifying and evaluating COI

Consider: How credible is the source, what evidence does it provide and how relevant is the information to the client's claim?

a) Consider which sources to consult to ensure evidence is found credible

See 'Identifying and Evaluating Country of Origin Information'

It may be useful to have a pre-assessed list of sources by topic, so that you develop a knowledge base of organisations working on gender related issues.

- b) Undertake research using questions from points 1a, 1b and 3, tailored to the client's circumstances, countering information from points 2a and 2b.

Outcome: Targeted, objective research specific to client's claim, using relevant, accurate, up to date information from reliable sources.

Identifying research questions arising from claim

The following issues should be considered when researching COI for a clients claim.

Agents of persecution

State agents are individuals working in an official capacity for the state such as, police officers, state sponsored militia, intelligence operatives and government officials

Non-state agents may include a woman's father, husband, brother, other relatives, community members; there may be use of private detectives/bounty hunters

Law in theory and reality

Research should focus on protection in reality, not just on theoretical/legal provision but on how this provision is implemented in practice. Investigate how many prosecutions are brought under any relevant legislation.

Protection issues

Consider the attitudes of law enforcement officials, enforcement of legislation or lack of legislation, provision of shelters/social support, witness protection schemes

Risk on return

If returned a woman may be subjected to the practice that she fled, by force. A woman may be socially isolated and suffer stigmatisation and further persecution. Without male relatives and a family or social network she may be unable to support herself. A woman might not have access to alternative support services. By fleeing and seeking asylum a woman may be considered to have brought shame to her family and community and may be at risk of honour related crimes.

Relocation - Internal Flight Alternative (IFA)

The courts may argue that it would be safe for a woman to relocate to another area of the country. Internal Flight Alternative raises particular issues for women who may not be able to integrate into society without male relatives or have access to employment and accommodation. Women are often reliant on extended family networks. A single woman may become vulnerable to exploitation, especially if her ethnicity and language identify her as not being from that area. It is uncharacteristic in many countries for a woman to be living by herself, so this may lead to her being identified as deviating from social norms. She may be further stigmatised and become more vulnerable as a result.

Research questions in relation to IFA may include:

- Would your client be able to integrate and support herself in another area of the country?
- Why is it not possible for client to live in another area of the country?
- What difficulties would she face?
- Is the harm she fears localised or not?
- What protection is available in area of relocation?
- What is the likelihood of integration, including access to livelihood and social networks?
- Is the practice that your client fears prevalent on a national level?
- Is there evidence of the use of private detectives/bounty hunters/extended family networks to trace victims?

Socio-cultural context

It is difficult to find research which conveys social attitudes, cultural norms and values, but this information is essential in contextualising women's experiences of persecution. Research should investigate how cultural ideologies conceptualise a woman's role within society.

The contextual framework from which research questions should be viewed include:

- The position of women before the law
- Protection of women in practice
- Incidences of failure of the state to provide protection
- Political and civil rights of women
- Social and economic rights of women
- Status of women within society and family
- Concepts of family honour
- Consequences for women who challenge social/cultural norms
- Forms of violence against women in private and public sphere
- Consequences for women on return
- Attitudes to same sex relationships
- Livelihoods accessible to women

The woman's individual circumstances

A woman's individual circumstances will be scrutinised by the courts, hence research in relation to a case needs to focus on the specific circumstances of the individual applicant. Gender related cases are often argued in relation to grounds of membership of a particular social group¹⁰⁷. An analysis of the client's individual circumstances will help identify whether she has such membership. Information concerning the following will be needed:

- Age
- Ethnicity/Clan/Language/Religion
- Area of residence
- Marital status
- Family status
- Dependants
- Occupation/education

¹⁰⁷ For further information on 'Particular social group' see Guidelines on International Protection: "Membership of a particular social group" within the context of Article 1A(2) of the 1951 Convention and/or its 1967 Protocol relating to the Status of Refugees

Age

Age is relevant when researching the usual age at which practices are carried out e.g. FGM or age range of those at risk of trafficking.

It is also pertinent to a consideration of the risks on return and whether the woman has the appropriate life experience to relocate.

Ethnicity/Clan/Religion/language

Different ethnic, clan and religious groups may use diverging rituals, procedures and cultural justifications for practices, so research should be specific to a woman's ethnic, clan and religious background where information is available.

The principle of an internal flight alternative (IFA) suggests that women may be able to relocate to another part of the country. However in patriarchal countries where women are dependent on male relatives a single woman, speaking a different language or dialect, from a different ethnic group would stand out, and people may question why she is without family and support. Single women may not be able to travel without an escort. Being single may indicate vulnerability, leaving her unable to integrate or at risk of exploitation. In some areas access to land, resources and protection is accessed on the basis of membership of a clan, ethnic or religious group.

Area of residence

Cultural practices may be specific to certain areas and communities.

Marital Status

If married, a woman may be expected to be living with her husband. If of marriageable age, being unmarried may raise suspicion or attract stigma. If divorced, a woman may be vulnerable to exploitation, or may be perceived to have transgressed social norms. Unmarried mothers may be thought to have brought shame to a community and transgressed social norms.

Family status

Establish what social support is available to her and whether she has male relatives. Extended family networks are important in countries without state provided social security.

Dependants

If a woman has young children to care for it may increase her vulnerability and the difficulty of integration and travel. A woman may find it more difficult to find work if she is without family/social network to help look after the children

Occupation and education

In establishing whether your client has access to a sustainable livelihood, consider whether client previously employed? Has she got skills/a trade? Would the client be able to find employment and support herself financially?

COI Reports

All key points in relation to individual research are relevant to the compilation of COI reports.

The aims of the research strategy for producing COI reports are to provide materials relating to:

- a) Circumstances of a diverse range of profiles
- b) The nature of types of harm and the impacts on women
- c) The state protection available in theory and reality in relation to a range of gender related harm
- d) Plausibility of internal relocation with regard to a range of harms and profiles

When compiling COI reports, consideration should be given to the profiles of a diverse range of women, e.g. single, married, widowed, divorced, mothers, and to producing information that reflects and comments on their circumstances. Coverage of a range of country conditions and human rights issues affecting women is important as women's claims and lives depend on being able to substantiate their testimony, establish risk on return and lack of state protection and negate the viability of IFA. Decision making which relies on COI reports requires fair and balanced information.

Invisible groups

Women often constitute an invisible group in COI as their experiences are under reported and as a result are often poorly documented. Women may be found not credible by decision makers if substantiating information about the existence of a practice is not reported in COI. Not being able to find COI relating to a particular group or issue does not equate to the group or issue not existing

Generic gender specific case research questions to consider

The following research questions are listed as examples of generic questions which can be asked in relation to types of gender related harm, regardless of an individual's specific circumstances. They are not intended to be exhaustive, but to indicate a strategy in setting research questions. They address issues relating to government policy and legislation, practices and procedures associated with a type of harm, societal attitudes and support services.

Domestic Violence

1. Is there legislation outlawing domestic violence and spousal rape in XXX?
2. Have any prosecutions been made? Are there examples of successful prosecutions?
3. What punishment/sentence is given to those found guilty of domestic violence?
4. Are there obstacles to women in accessing the legal system to gain protection?
5. What is the attitude of police towards women who want to report domestic violence?
6. Are cases pursued by the police?
7. What are the socio-cultural attitudes towards gender roles within marriage? (What is expected of a 'wife' and of a 'husband'?)
8. What are the socio-cultural attitudes towards domestic violence?
9. Are there women's shelters in XXX?
10. How many women can they accommodate and for how long?
11. What financial support or social security is available for women who have separated from partners due to domestic violence in XXX?
12. How can a separated woman support herself financially in XXX?
13. Is domestic violence grounds for divorce in XXX?
14. What are a woman's child custody rights if she divorces/leaves her husband?
15. Is there stigma attached to leaving an abusive relationship?
16. Are there cultural practices which increase the pressure to stay within an abusive relationship e.g. family having paid a bride price/dowry, girls having been promised to the son of another family since an early age?
17. Would a woman fleeing domestic violence be able to relocate in another part of the country and support herself as a single/separated/divorced woman?

FGM

1. Is FGM illegal in XXX?
2. Are these laws upheld in practice?
3. What are the punishments for those performing illegal FGM?
4. What protection is available to women who do not want to undergo FGM?
5. Which ethnic/religious groups practise FGM in XXX?
6. In which areas of XXX is FGM practised?
7. What percentage of women and girls from XXX are subjected to FGM?
8. At what age is FGM usually performed in XXX?
9. What type of FGM is usually performed?
10. What rituals accompany the practice of FGM?
11. What action is taken towards women and girls beyond this age who have not been subjected to FGM?
12. Is there evidence of FGM being forcibly performed?
13. What is the social status of women and girls who are uncut?
14. Is FGM associated with secret/women's societies in XXX?
15. Is FGM a prerequisite to marriage in XXX?

16. What is the socio-cultural justification for FGM in XXX?
17. Which parties are likely to insist on FGM?
18. Would a woman fleeing FGM be able to relocate in another part of the country and support herself as a single uncut woman?
19. Can members of an ethnic group identify people as being from other ethnic groups?
20. Could a single woman exist outside her ethnic group? What is the effect on a woman who of being separated from her ethnic group?

HIV

1. Which combination anti-retroviral drugs are available in XXX?
2. Is there equal access to these drugs? (Men and women, old and young etc)
3. Are there dedicated health centres for HIV/AIDS sufferers in XXX?
4. How accessible are these centres, considering distance from residing area, transport availability, costs, and ease of travel?
5. Are there disruptions in supply for medicines?
Will the brand of drug your client is taking be available?
6. Are viral and CD4 count tests available?
7. Are resistance tests available?
8. Are these tests free of charge? If no, what is the cost for each test?
9. How much does treatment cost per patient per month/year?
10. How much would the average person expect to earn each month/year?
11. How much could someone of your client's skill level expect to earn?
12. Does a patient have to pay for these treatments?
13. Are specialist paediatric treatments available for children who are HIV positive?
14. How are HIV positive women treated by society? Are women with HIV/AIDS subject to discrimination, stigma, isolation or persecution?
15. Does having HIV affect a person's ability to find work? Are women with HIV/AIDS discriminated against by employers?
16. How might an unmarried woman with HIV support herself in XXX – what options does she have in terms of getting a job and accommodation?
17. Are there women's shelters in XXXX that will house HIV sufferers? If yes, for how long are they allowed to stay at the shelter?
18. What kind of diet might a woman returning to XXX expect to be able to maintain? (Some medication can only be taken with a healthy diet)
19. Is there a consistent electricity supply in XXX? (Medication may be required to be kept in a fridge)

Honour crimes

1. Are honour crimes a criminal offence in XXX?
2. Are more lenient sentences given to people convicted of murder/manslaughter in the name of 'honour'?
3. Are police obliged to pursue claims of threats to personal safety from relatives due to perceived violation of 'honour'?
4. Do the police view 'honour' crimes as a private/family matter?
5. What evidence is there of honour crimes in XXX, and what types of violence are accused women subjected to (e.g. acid attacks, self immolation, murder)
6. Are there shelters in XXX which accommodate and support women who fear honour crimes? If yes, how long can women stay at these shelters?
7. What services are offered by these shelters?

8. What options are there for women when they have to leave the shelters?
9. Are single women able to support themselves in XXX without the need for a male relative?
10. Is the state able to offer protection to women whose relatives pursue them? If yes, in what form?
11. What is the attitude of the community towards women who have been the subject of honour crimes?
12. Would a woman fleeing honour crimes be able to relocate in another part of the country and support herself as a single woman?

Marital rights

1. Are women legally entitled to marry the person of their choice?
2. In reality are women free to marry the person of their choice? what influence do family, society and cultural traditions have?
3. What is the legal marriageable age in XXX?
4. Are marriages considered 'religious' rather than 'legal' acts in XXX?
5. Are women able to refuse a marriage, and what are the consequences of refusal?
6. Within marriage, is a woman able to negotiate level of her sexual activity?
7. Is spousal rape banned by law?
8. If yes, what sanctions are prescribed?
9. What is the attitude of police towards women who want to report spousal rape?
10. Are cases of spousal rape pursued by the police?
11. Are there obstacles to women in accessing the legal system to gain protection (if it is available)?
12. Are married women allowed to hold a paid job, apply for and hold a passport in their own name, access health care, drive or travel independently without their husband's permission?
13. Are women able to instigate divorce? Is there a stigma or negative consequences associated with doing so?
14. How does society view divorced women?
15. Are divorcees entitled to a share of marital property?
16. Are divorcees entitled to maintain custody of children?
17. Are widows entitled to marital property?
18. Are widows entitled to maintain custody of children?
19. Does the status divorcee or widow affect access to employment? If yes, how are divorcees/widows financially and socially supported?
20. Can divorcees/widows remarry (the person of their choice)?
21. Are divorcees and widows forced/coerced to remarry a husband's relative?
22. How does society view single women?
23. How does society view single mothers/widows?
24. Does the status of being single/ widowed/divorced affect legal rights and/or access to services?

Repressive social norms

Issues of conformity and expectation surrounding

1. Dress
2. Refusing an arranged marriage
3. Level of sexual activity within and outside marriage
4. Sexual orientation
5. Pregnancy outside marriage
6. Political and women's rights activism
7. Education and employment

Trafficking

1. Is there legislation in XXX against trafficking?
2. Can you summarise XXX legislation on trafficking? What protection are victims afforded by the state?
3. Are legal remedies effective in practice?
4. Do you know of any successful prosecutions in XXX?
5. Is there any other evidence to indicate the effectiveness of measures taken by the government to protect victims of trafficking?
6. Is XXX a source or destination country, or both?
7. Which countries are victims from XXX trafficked to?
8. What is the attitude of the police towards trafficking victims?
9. Are police trained in dealing with victims of trafficking?
10. Is there evidence of police corruption and/or collaboration with traffickers in XXX?
11. Is there an official procedure for the treatment of victims of trafficking
If they are deported from another country as either failed asylum seekers or illegal entrants?
12. Is there effective redress against organized crime in XXX?
13. What is the incidence of re-trafficking in XXX, and how is this process is facilitated?
14. Are there factors which increase a woman's likelihood of being trafficked/re-trafficked?
15. Is there any evidence of reprisal attacks where women have escaped?
16. What is the risk on return for victims of trafficking who have acted as witnesses in criminal proceedings in the UK against their pimps/traffickers, regardless of whether they lead to custodial convictions for the traffickers in the UK?
17. Are there women's shelters in XXX able to give accommodation and protection to victims of trafficking?
If yes, for how long? Are there any limitations to access e.g. age?
18. How are the shelters funded?
19. Are trafficking victims subject to conditions in receiving support? (e.g. must cooperate in prosecution of trafficker)
20. What is the shelter's relationship with the police? Is there support and cooperation?
21. Do you know of incidents of traffickers pursuing victims in a shelter. If yes, how was the woman's whereabouts known to trafficker?
22. Are there psychological, social and medical facilities to support victims of trafficking in XXX?
23. If yes, what services do they offer?
24. Is the issue of trafficking widely known by the public in XXX?
25. Would society be able to identify women as victims of trafficking? If yes, what factors identify them?
26. Would victims of trafficking (especially for sexual slavery) be stigmatized by family or community?
27. If unable to return to her family, what options are there for a single woman to support herself?
28. Are victims of trafficking able to reintegrate into society and is there supported assistance in doing so?

Identifying and Evaluating Country of Origin Information¹⁰⁸

RWRP has published a list of useful sources, see RWRP's 'Case Research Guidance Notes; Country of Origin Information Resources'¹⁰⁹

The following can be considered sources of COI

News Agencies:

e.g. BBC, Guardian, The Times, Institute of War and Peace Reporting, Local newspapers in countries of origin

Human Rights Organisations and other NGO's:

e.g. Human Rights Watch, Amnesty International

Government Bodies:

e.g. Foreign and Commonwealth Office, Home Office, US Department of State

Inter- governmental agencies:

e.g. United Nations (incl. UNIFEM, UNDP, UNHCR etc), World Health Organisation

Academic Institutions

e.g. Anthropology, law, sociology and women's studies departments

Experts

e.g. Medical professionals, journalists, academics

Experts may produce reports in relation to your client's circumstances, it is likely that these will be commissioned by the client's legal representative.¹¹⁰ Experts may also be able to signpost you to further sources of information.¹¹¹

Testimonies of other women

Due to the limited availability of information on women's position in countries of origin the UN argues that "the testimonies of other women similarly situated in written reports or oral testimony, of non-governmental or international organisations or other independent research" might be an alternative form of information.¹¹²

108 For further analysis of types of sources, their value and limitations, assessment and evaluation, see ACCORD, Researching Country of Origin Information: A Training Manual, Vienna, 2004; Crawley, Heaven, Refugees and Gender; Law and Process, Jordans, Bristol, 2001, p217, Chapter 10.5.1 Procedural and Evidential issues, Documentary evidence and country reports. Immigration Appellate Authority, Asylum Gender Guidelines, November 2000, Section 5, Procedural and Evidential issues, Country of origin information: Documentary evidence; Henderson, Mark, Best practice Guide to Asylum and Human Rights Appeals, ILPA/Refugee Legal Group, London, 2003

109 See www.asylumaid.org.uk

110 For further information on the use of experts see Henderson, Mark, Best Practice Guide to Asylum and Human Rights Appeals, ILPA/Refugee Legal Group, London, 2003. ILPA and EIN publish a Directory of Experts see www.ein.org.uk

111 In liaising with third parties, nothing that could identify your client should be shared without their permission.

112 Guidelines on International Protection: Gender-Related Persecution within the context of Article 1A(2) of the 1951 Convention and/or its 1967 Protocol relating to the Status of Refugees, 7 May 2002. Point 37, Evidentiary Matters

The main sources of COI that judges have access to are:

- Home Office COIS report
- US State Department reports
- Amnesty International reports
- Human Rights Watch reports

See www.ait.gov.uk for a list of the resources to which judges have access.

Databases

The following are specialist information providers of country of origin information.

- Refworld
- Electronic Immigration Network
- European Country of Origin Information Network
- Asylumlaw
- Refugee Documentation Centre – Ireland
- Immigration and Refugee Board of Canada
- Centre for Gender and Refugee Studies

RWRP research service

RWRP runs a research support service offering training and research support. Subject to capacity, RWRP takes on external research requests.

Assessing and evaluating COI

The credibility of a source document and the organisation which produced it should be rigorously assessed¹¹³. If the courts find the source not credible the information will not be accepted as 'objective evidence'.

It is useful to produce a pre-assessed list of source organisations, by topic, to help structure your research and build a knowledge base. These lists need to be regularly updated. Criteria for approving an organisation as a credible source should consider its:

- Mandate
- Funding
- Political bias
- Presence in country of origin

Issues to consider in evaluating the strength of the document include:

- Date of publication
- Time period information refers to
- Accuracy of content
- Research methodology and management
- Expertise/experience of author
- Whether the author is writing about something they have direct experience/practice-oriented knowledge of
- How relevant is document? What evidence does it provide? – Be specific to the individual claim
- Political/religious bias or other impartiality?
- What is the organisation's remit/mandate?
- How are they funded? Who by?
- Who funds them and what are they funded to do?
(Large funders like USAID and the UN 'screen' organisations before giving them money, they will have checked the integrity of the project or organisation. Funders can strengthen the credibility of an organisation and the reports it produces.)
- How is the organisation (source) governed/managed?
- Was the research commissioned? Who by and with what objective?

Reporting and presentation

Depending on your role and organisational requirements, reporting needs will be different. They may range from collating full text documents with no analysis, to providing a report with narrative analysis, abstraction and quotations.

¹¹³ For further guidance on assessing and evaluation, see ACCORD, Researching Country of Origin Information: A Training Manual, Vienna, 2004;

Research report content, structure and presentation

If you are researching information on someone else's behalf you need to report back clearly and objectively. Include a summary of the claim details and list the research questions which you addressed. Use minimal analysis with neutral language to introduce your findings, sources used and their relevance. Don't offer personal opinion. Let a source speak for itself, quoting relevant sections of text and fully referencing them using footnotes. Report sources accurately and impartially. If a source contains information which may not favour your client, say so. If you are unable to find information on an issue, say so. List all sources consulted, whether or not you have used them.

Your report might include:

- Anonymous coding – removal of client's personal details (Third party organisation)
- Summary of claim details
- Research questions addressed
- Introduction of sources and their relevance
- Quotation of relevant sections
- Full reference to sources used
- Information which is unfavourable to the client
- Report if you were unable to access information
- List of all sources consulted
- Impartial language used

Abstracting

Abstracting key points, facts and opinions from a document helps the reader decide if they want to read or make use of the original.

An abstract summarises and digests the original content; it considers what was important to the author and what will be important to the reader. The following structure is useful:

- Who
- What
- When
- Where
- Why
- How

Referencing

Fully reference all information selected including the:

- Document title
- Date of publication
- Author
- Organisation
- Country of publication
- Website address
- Date published, if this is not available record the date information was retrieved

Style guide

A style guide sets out standards and rules for ensuring consistency when producing printed materials.

It may regulate:

- Format
- Structure and content
- Level of analysis
- Standard phrases
- Citation rules
- Referencing
- Disclaimer

Information Management

Managing information on web portals and internal systems

Women's cases can be more time consuming to research as fewer reports are available on gender-related harm. Those that are available can be difficult to locate.

Web portals and internal systems holding human rights and COI reports should seek to mainstream information relating to women, thereby improving access and availability and reducing time taken for end users.

Using gender specific categories and search terms for organising information raises awareness of types of harm and promotes reports on issues affecting women. Such usage also acts as a prompt for information professionals to actively source information under these headings.

Information professionals should familiarise themselves with the wider generic research questions generated by gender related asylum claims (See section 'Generic gender specific case research questions to consider'), to ensure that the information they source is adequate to meet research needs.

A suggested list of gender related subject categories and thesaurus can be found in the section 'Researching women's asylum and human rights claims'.

A good practice example of hosting women's country information has been developed by the RWRP and EIN (HJT).

EIN

EIN is a specialist provider of information on UK immigration and refugee law via the internet and hosts a country information database provided by HJT. The site is used as a research tool by legal representatives and COI researchers.

RWRP worked in partnership with HJT to create a dedicated women's page for each country and search terms by types of gender related harm.

This has proved an effective research tool, improving the efficiency of researching women's asylum and human rights cases, making searches more targeted and reducing time taken. It has improved access to publicly available reports documenting women's experience in countries of origin.

The country database is available by subscription only; for alternative databases see section on Identifying and Evaluating Country of Origin Information.

The screenshot shows a web browser window displaying the 'Country Database: Afghanistan' page. The page has a navigation menu on the left with categories like 'case law', 'country', 'resources', 'legislation', 'bundle', 'discussions', 'home', and 'search'. The main content area is titled 'Afghanistan Women's Resource Reports' and includes a search box and a dropdown menu for selecting topics. The dropdown menu is open, showing options such as 'All Topics', 'Adultery', 'Divorce', 'Domestic Violence', 'Honour Crimes', 'Female Genital Mutilation', 'Forced Marriage', 'Forced Prostitution', 'Mixed Marriage', 'Rape', and 'Trafficking'. Below the dropdown, several news reports are listed, each with a title, date, and index terms. For example, one report is titled 'Afghanistan: Lack of institutional mechanisms to tackle human trafficking' and is dated 19/07/2007.

Checklist: Researching gender and persecution

Researchers

- Recognise the influence of patriarchy and women's unequal status in countries of origin and consider their impact for the protection of women's human rights in reality
- Consider all angles relevant to gender specific harm, including how it impacts on women psychologically, medically, financially and socially in the immediate and long term.
- Understand that persecution may continue after the incidence of gender specific harm, e.g. rape, FGM, honour crimes (ostracised from family, unable to get married, unable support herself)
- Investigate protection in theory and contrast it with protection in reality. This includes examining not only state apparatus but also organisations such as NGOs that are able to assist and support such women.

Information professionals

- Clearly classify information on women with gender specific terms
- Actively search for information to host on these topics
- Understand importance of cataloguing to prompt for sourcing and to aid user searching
- Understand types of questions to be addressed by case research on gender related cases
- Understand the impact of lack of information on women's cases
- Mainstream information relating to women by hosting comprehensive information relating to women, so that women's organisations do not need to carry this information separately from other mainstream COI sites

Appendix

Home Office Asylum Policy Instructions: Gender issues in the asylum claim

“Decision makers should familiarise themselves with the role, status, and treatment of women in the country from which a woman has fled, using the country information supplied by the Country of Origin Research Service. It is essential to consider a number of issues when gathering information. These include, but are not limited to:

- Position of women before the law including their standing in court, the right to bring a complaint and give evidence, divorce and custody law, the right to own property, reproductive rights, freedom to travel, and the political, social and economic rights referred to below:
- Political rights of women including the right to vote, to hold office and belong to a political party:
- Social and economic rights of women including the right to marry the person of their choice, the right not to marry and the right to divorce, the right to determine their own sexuality, the right to an education, a career, and a job or remunerated activities, the status of single women, widows or divorcees, and freedom of dress;
- Consequences for women who refuse to abide by or who challenge social, religious or cultural norms regarding their behaviour including, for example, norms regarding virginity and pre-marital or extra-marital sex or pregnancy, norms around the institution of marriage including arranged marriages and divorce, and norms about behaviour and dress:
- Incidence and form of violence against women and the forms it takes (such as, but not limited to, violence within the family, sexual abuse, honour killings, bride-burning)
- Efficacy of protection available to women and the sanctions or penalties on those who perpetuate the violence;
- Consequences that may befall a woman on her return. A woman may be at greater risk on return than a man because, for example, of the authorities’ and the society’s attitude towards women travelling alone.”¹¹⁴

¹¹⁴ Home Office, Asylum Policy Instruction: Gender issues in the asylum claim, October 2006

IARLJ COI Judicial Checklist

The following is a working document produced by the International Association of Refugee Law Judges¹¹⁵.

COI Judicial checklist

When assessing Country of Origin Information (COI) in the context of deciding asylum or asylum-related cases judges may find the following nine questions useful:

Relevance and adequacy of the Information

- i) How relevant is the COI to the case in hand?
- ii) Does the COI source adequately cover the relevant issue(s)?
- iii) How current or temporally relevant is the COI?

Source of the Information

- iv) Is the COI material satisfactorily sourced?
- v) Is the COI based on publicly available and accessible sources?
- vi) Has the COI been prepared on an empirical basis using sound methodology?

Nature / Type of the Information

- vii) Does the COI exhibit impartiality and independence?
- viii) Is the COI balanced and not overly selective?

Prior Judicial Scrutiny

- ix) Has there been judicial scrutiny by other national courts of the COI in question?

¹¹⁵ International Association of Refugee Law Judges, Country of Origin Country Guidance Working Party, Judicial Criteria for Assessing Country of Origin Information (COI): A Checklist, Paper for 7th Biennial IARLJ World Conference Mexico City, 6-9 November 2006

