

## Appendix 9: Lesbian and bisexual women in the asylum system (Article 9)

No protection or special measures are in place for lesbian and bisexual (LB) women asylum seekers to the UK. However, the NGO sector has reported increasing numbers of women seeking asylum because of persecution related to their sexuality. Establishing asylum claims for LB women is especially complicated as women experience persecution in many ways and it may be impossible to untangle what is gender-related, and what is connected to sexual or gender identity.

The problems of claiming asylum are often compounded for LB women, who may be asked to 'prove' their sexual orientation<sup>1</sup> and are often not believed, especially if they have children or have been married. Also if LB asylum seekers reveal their sexuality later in the process it is assumed that this is being used to strengthen the case and that they are lying.<sup>2</sup> The United Nations High Commissioner for Refugees (UNHCR) guidance on claims relating to sexual orientation and gender identity states that "*self identification as LGB[&]T should be taken as an indication of the individual's sexual orientation*",<sup>3</sup> which should be used in all Home Office guidance.

Despite the landmark legal case of HJ (Iran),<sup>4</sup> which held that to expect a person to be discreet about their sexuality would be a denial of the very rights which the Refugee Convention was introduced to protect, LGB&T asylum applications are still refused on the basis that applicants can return safely to their home country by keeping their sexuality a secret and using 'discretion'. However, this has many implications, especially for women. LB women's applications for asylum are often refused on the grounds that the situation is known to be dangerous for men but not for women and there is little cultural understanding of the reality of life for women in many countries.<sup>5</sup>

Case study:<sup>6</sup>

"We have to spell out what 'discretion' would mean for that person, and quite often with lesbians, it means having to marry, and would be subjecting them to rape every day of their life."

Asylum seekers can find it extremely difficult to talk about their sexuality with a Home Office interviewer or their legal representative, or in front of an interpreter. For example

---

<sup>1</sup> Taylor, J. (2013) 'Gay? Prove it then – have you read any Oscar Wilde?': Judges accused of asking lesbian asylum seekers inappropriate questions', *The Independent*, 4<sup>th</sup> April 2013 [http://www.independent.co.uk/news/uk/home-news/gay-prove-it-then--have-you-read-any-oscar-wilde-judges-accused-of-asking-lesbian-asylum-seekers-inappropriate-questions-8558599.html?utm\\_source=LGF+weekly+bulletin&utm\\_campaign=618b47020f-LGF\\_Weekly\\_Bulletin\\_04\\_09\\_2013&utm\\_medium=email](http://www.independent.co.uk/news/uk/home-news/gay-prove-it-then--have-you-read-any-oscar-wilde-judges-accused-of-asking-lesbian-asylum-seekers-inappropriate-questions-8558599.html?utm_source=LGF+weekly+bulletin&utm_campaign=618b47020f-LGF_Weekly_Bulletin_04_09_2013&utm_medium=email)

<sup>2</sup> Women's Resource Centre (2010) *In All Our Colours: Lesbian, bisexual and trans women's services in the UK*. Briefing 4: Asylum seeker and refugee LBT women. Women's Resource Centre: London

<sup>3</sup> UNHCR The UN Refugee Agency (2008) *UNHCR Guidance Note on Refugee Claims Relating to Sexual Orientation and Gender Identity*. UNHCR: Geneva <http://www.unhcr.org/refworld/pdfid/48abd5660.pdf>

<sup>4</sup> HJ and HT v SSHD [2010] UKSC 31

<sup>5</sup> Miles, N. (2010) *No Going Back: Lesbian and Gay People and the Asylum System*. Stonewall: London [http://www.stonewall.org.uk/what\\_we\\_do/research\\_and\\_policy/2874.asp](http://www.stonewall.org.uk/what_we_do/research_and_policy/2874.asp)

<sup>6</sup> Miles, N. (2010) *No Going Back: Lesbian and Gay People and the Asylum System*. Stonewall: London [http://www.stonewall.org.uk/what\\_we\\_do/research\\_and\\_policy/2874.asp](http://www.stonewall.org.uk/what_we_do/research_and_policy/2874.asp)

this may be particularly hard for Muslim women if the legal representative or interpreter is Muslim themselves.

Case study:<sup>7</sup>

Ms Kaur is a lesbian woman from the Sikh community in Punjab, India. She refused to accept an arranged marriage and suffered repeated beatings, death threats, and attempted rape by her father because her family refused to accept her sexuality. Fear of retaliation prevented her reporting the violence to the police. On arrival in the UK, bad legal advice, severe trauma and her fears about speaking about her sexuality resulted in Ms Kaur never reporting what had happened to her until she was in detention.

Ms Kaur has faced deportation twice already. The first removal was stopped when she tried to kill herself by cutting her wrists – she wrote a goodbye message to her partner in blood on the walls of her cell at Yarl's Wood [detention centre]. She continues to be suicidal, and is also dangerously malnourished because she has not been able to eat since 14<sup>th</sup> February 2012. She has survived so far because of the care and support of her partner (who was herself recently released from detention).

If sent back to India, it would be easy for Ms Kaur's family to find her and she would be at risk of torture or even death. If Ms Kaur and her partner tried to live together as a couple they are likely to face violence, including 'corrective' rape, and 'honour' killing. Ms Kaur would not get the psychiatric and other medical care she needs, nor be able to access vital help from lesbian and gay groups which is available to her in the UK. Deprived of all support Ms Kaur would be left to live on the streets vulnerable to rape and other violence.

Ms Kaur is so terrified of being sent back she has told UKBA she would prefer to die here in the UK. Ms D says: *"As homosexuals we want to be safe and accepted where we are, not judged about our sexuality by our family or community. Wherever we are, we should not be raped, murdered or persecuted in anyway."*

#### **Recommendations:**

- **Gather statistics on sexual orientation or gender identity at asylum screening interviews and collate information on claims for asylum based on these**
- **Lesbian and Bisexual women and their experiences need to be more visible in Country of Origin Information Reports**

---

<sup>7</sup> From action alert 13/03/2012 from Queer Strike <http://www.globalwomenstrike.net/tags/queer-strike>