

# **GENDER ISSUES IN THE ASYLUM CLAIM**

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# INTRODUCTION

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## 1.1 Purpose of instruction

Paragraph 339J of the Immigration Rules requires the assessment of an asylum claim, eligibility for a grant of humanitarian protection or a human rights claim to be carried out on an individual, objective and impartial basis. Amongst other considerations, this will include taking into account the individual position and personal circumstances of the person. This includes factors such as background, **gender** and age, so as to assess whether, on the basis of the person's personal circumstances, the acts to which the person has been or could be exposed would amount to persecution or serious harm.

This instruction provides further guidance on how the UK Border Agency's responsibilities in considering asylum claims should be carried out with regard to gender. It should be read in conjunction with the Asylum Instruction (AI) on [Considering the protection \(asylum\) claim and assessing credibility](#).

It should be noted that in addition to the UK's obligations under the 1951 Refugee Convention and the European Convention on Human Rights (ECHR), and the minimum standards for protection set by the EU Qualification Directive, there are international and national legal instruments which impose positive duties on the UK to eliminate discrimination and gender-based violence; these include for example the UN Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) ratified by the UK in 1986, the ECHR as implemented by the Human Rights Act 1998 and the Gender Equality Duty introduced into the Sex Discrimination Act 1975 by the Equality Act 2006.

## 1.2 Other related guidance

Separate guidance on the assessment of asylum applications made by children, including the statutory duty to safeguard and promote the welfare of children in the UK is available in the AI on [Processing asylum applications from children](#).

Adults who are registered as dependants are informed at their screening interviews that they have the right to make their own applications for asylum and whether they wish to claim asylum in their own right. Guidance on the handling of applications made by former dependants of principal applicants is available in the AI [Applications for asylum by former dependants](#) (under revision). See also below at [7.2 Credibility](#) .

Guidance on asylum interviews is at [Conducting the asylum interview](#) (under revision).

Guidance on the consideration of asylum claims made on the basis of sexual orientation or gender identity is available in the AI on Sexual Orientation and Gender Identity.

### 1.3 Key points

- Considering the gender related aspects of the claim will help ensure that all aspects of a claim are fully and fairly considered.
- Gender-related claims may be brought by either a woman or a man, but are more commonly brought by women.
- Forms of persecution relevant to women are often very different from those experienced by men. They may occur within the family or community and at the hands of State actors.
- Discrimination may amount to persecution in countries where serious legal, cultural or social restrictions are placed upon women.
- Customs and traditions which are potentially harmful to women may be contrary to the law in some countries but the State may be unable or unwilling to enforce the law, and recourse to protection may be more difficult for women than for men.
- The availability of internal relocation may be more difficult for women than for men. Great care needs to be taken in assessing its reasonableness on an individual basis.
- An understanding of the country of origin information relating to the position of women is essential to the effective conduct of interviews and to making correct decisions.
- Interviewers should be ready to ask searching questions while being sensitive to the difficulties an applicant may have in disclosing all the relevant information

### 1.4 Application in respect of children and those with children

Section 55 of the Borders, Citizenship and Immigration Act 2009 requires the UK Border Agency to carry out its existing functions in a way that has regard to the need to safeguard and promote the welfare of children in the UK. It does not impose any new functions, or override existing functions. Officers must not apply the actions set out in this instruction to those with children without having due regard to section 55 and the statutory guidance 'Every Child Matters : Change for Children' issued under section 55.

Our statutory duty to children includes the need to demonstrate:

- Fair treatment which meets the same standard a British child would receive;
- The child's interests being made a primary, although not the only consideration;
- No discrimination of any kind;
- That asylum applications are dealt with in a timely way that minimises the uncertainty that children may experience;
- The identification of those that might be at risk from harm.

# FORMS OF PERSECUTION

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## 2.1 The Qualification Directive

The European Council Directive (2004/83/EC) of 29 April 2004, on minimum standards for the qualification and status of third country nationals or stateless persons as refugees or as persons who otherwise need international protection and the content of the protection granted, contains definitions of certain terms within the 1951 Convention. The Qualification Directive was transposed into UK law through the Refugee or Person in need of International Protection (Qualification) Regulations 2006 and changes to the immigration rules, and applies to asylum and human rights claims since 9 October 2006.

Article 9 of the Qualification Directive states that:

1. *Acts of persecution within the meaning of article 1 A of the Geneva Convention must:*
  - (a) *be sufficiently serious by their nature or repetition as to constitute a severe violation of basic human rights, in particular the rights from which derogation cannot be made under Article 15(2) of the European Convention for the Protection of Human Rights and Fundamental Freedoms; or*
  - (b) *be an accumulation of various measures, including violations of human rights which is sufficiently severe as to affect an individual in a similar manner as mentioned in (a).*
2. *Acts of persecution as qualified in paragraph 1, can, inter alia, take the form of:*
  - (a) *acts of physical or mental violence, including acts of sexual violence;*
  - (b) *legal, administrative, police, and/or judicial measures which are in themselves discriminatory or which are implemented in a discriminatory manner;*
  - (c) *prosecution or punishment, which is disproportionate or discriminatory;*
  - (d) *denial of judicial redress resulting in a disproportionate or discriminatory punishment;*
  - (e) *prosecution or punishment for refusal to perform military service in a conflict, where performing military service would include crimes or acts falling under the exclusion clauses as set out in Article 12(2);*
  - (f) *acts of a gender-specific or child-specific nature.*

NB, although Article 9 (2)(f) was not transposed into UK law by the 2006 Regulations and changes to Immigration rules, the UK Border Agency accepts that acts of a gender-specific nature, other than sexual violence, may also constitute persecution. Whether a particular action amounts to persecution requires the decision-maker to reach a judgement in each case.

## 2.2 Forms of gender-related persecution

Gender may inform an assessment of whether one of the five Convention grounds does apply i.e. race, religion, nationality, membership of a particular social group or political opinion. Gender issues may be relevant in assessing persecution when:

(i) the form of persecution experienced is gender-specific or predominantly gender-specific: for example, rape and other forms of sexual violence, domestic violence, crimes in the name of honour, female genital mutilation (FGM), forced abortion and sterilization; and/or

(ii) the reason for persecution is gender-based, i.e. the applicant fears persecution on account of her or his gender or gender identity.

The ways in which gender is also relevant to a woman or man's experience of persecution include:

- i) gender-specific persecution for reasons unrelated to gender (e.g. raped because of holding or expressing a political opinion);
- ii) non-gender-specific persecution for reasons relating to gender (e.g. flogged for not adhering to the codes of a religion e.g. refusing to wear a veil); or
- iii) gender-specific persecution because of gender (e.g. female genital mutilation (FGM)).

There are many forms of harm that are more frequently or only used against women. These can occur in the family, the community, or at the hands of the State. They include, but are not limited to:

- marriage-related harm (e.g. forced marriage);
- violence within the family or community (e.g. honour killings) ;
- domestic slavery;
- forced abortion;
- forced sterilization
- forced prostitution;
- trafficking;
- female genital mutilation;
- sexual violence and abuse; or
- rape.

The fact that violence against women is common, widespread and culturally accepted in a particular society does not mean that protection on an individual basis is inappropriate. FGM, for example, is widely practised in some societies but it is a form of gender-based violence that inflicts severe harm, both mental and physical, and amounts to persecution. Each case should be considered on its own merits in the light of country of origin information and guidance.

## 2.3 Discrimination

A discriminatory measure, in itself or cumulatively with others, may, depending on the facts of the case, amount to persecution. This would be the case, for example, if the discrimination has consequences of a substantially prejudicial nature for the person concerned such as:

- serious legal, cultural or social restrictions on rights to earn a livelihood;
- serious legal, cultural or social restrictions on rights to private and family life;
- restrictions on political enfranchisement;
- the ability to practise or not practise a religion;
- restrictions on access to public places;
- the ability to access normally available educational, legal, welfare and health provision (e.g. a woman may have limited property rights or be restricted access to healthcare including birth control of her choice).

Women may also be subjected to discriminatory treatment that is enforced through law or through the imposition of social or religious customs that restrict their opportunities and rights. This can include:

- Family and personal laws;
- Dress codes;
- Employment or education restrictions;
- Restrictions on freedom of movement and/or activities;
- Political disenfranchisement.

# NON-STATE AGENTS OF PERSECUTION AND THE FAILURE OF STATE PROTECTION

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## 3.1 General

Persecution is often perpetrated by the state. However, acts of violence and serious discrimination committed by the local populace, within a specific community, within the family, or by individuals, are also persecutory if such acts are knowingly tolerated by the authorities, or if the authorities refuse, or prove unable or unwilling to offer sufficient protection.

Protection is generally considered effective when the state takes reasonable steps to prevent the persecution or suffering of serious harm, and the applicant has access to such protection.

## 3.2 Country of Origin information

Case owners should: refer to objective country of origin information provided by the Country of Origin Service (COIS), in particular the sections on women; make (where necessary) a case specific research request to COIS; refer to Country Guidance cases (principally found in the country Operational Guidance Notes); and take into account the relevant sections on actors of persecution and the sufficiency of state protection in the AI [Considering the protection \(asylum\) claim and assessing credibility](#).

## 3.3 Failure or inadequacy of State protection

For reasons of gender, women in particular may be subject to gender-related abuse resulting from social customs or conventions because there is no effective means of legal recourse to prevent, investigate or punish such acts. Such failure of state protection may include:

- legislation (e.g. marital rape exemptions in law);
- lack of police response to pleas for assistance;
- reluctance, refusal or failure to investigate, prosecute or punish individuals;
- encouragement or toleration of particular social/ religious/customary laws, practices and behavioural norms or an unwillingness or inability to take action against them.

For example the state may make illegal an act that can amount to persecution, such as FGM, but continue to condone or tolerate the practice or be unable to put an effective end to the custom because of its widespread cultural acceptance.

It is not always reasonable or possible for a woman to alert the authorities to her need for protection. This may be because protection is not be forthcoming; or because by requesting protection she risks violence,

harassment, rejection by her society or even further persecution. In some societies it may not in fact be possible for a woman to approach the authorities, for example, without being accompanied by a male.

The ways in which particular laws, social policies or practices (including traditions and cultural practices) are implemented may constitute or involve a failure of protection. Thus, for example,

- (i) a law, policy or practice may have a "legitimate" goal, e.g. the maintenance of law and order out of respect for genuine religious or social sensitivities, but be administered through persecutory means;
- (ii) the penalty for non-compliance with the law or policy may be disproportionately severe against certain women/groups;
- (iii) a law, policy or practice may not be enforced in practice and therefore fail to deter or prevent the banned behaviour.



# GENDER AND THE REFUGEE CONVENTION

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## 4.1 General

Gender must inform an assessment of whether one or more of the five Convention grounds may be applicable.

In many societies a woman's political opinion, race, nationality, religion and social affiliations are often seen as aligned with those of relatives or associates or with those of her community. It is therefore important to consider whether a woman is persecuted not only in terms of her activities or beliefs etc but because of a Convention ground which is attributed to her. 'Religion' and 'political opinion' in particular need to be properly interpreted to include women's experiences. In some cases, 'women' (or a sub-category of women) may qualify as a 'particular social group'. Case owners are reminded that an application claim may be analysed in terms of more than one Convention reason, and an applicant is not required to identify accurately the Convention reason for her fear.

If no Convention reason can be identified, decision-makers must next consider whether the return of the applicant would be contrary to the UK's obligations under the ECHR, in particular Articles 2, 3 and 8, and whether a grant of Humanitarian Protection or Discretionary leave would be appropriate.

## 4.2 Race

Whilst actual or attributed racial identity is not specific to women, gender may affect the form that persecution takes in race-related cases. For example, whilst the destruction of ethnic identity and/or prosperity of a racial group may be through killing, maiming or incarcerating men, women may be viewed as propagating ethnic identity through their reproductive role, and may be persecuted through, for example, sexual violence or control of reproduction.

## 4.3 Religion

A woman may face harm for adherence to, or rejection of, a religious belief or practice. Religion as the ground of persecution may include but is not limited to, the freedom to hold a belief system of one's choice or not to hold a particular belief system and the freedom to practise a religion of one's choice or not to practise a prescribed religion.

Where the religion assigns particular roles or behavioural codes to women, a woman who refuses or fails to fulfil her assigned role or abide by the codes may have a well founded fear of persecution on the ground of religion. For example a woman who does not adhere to certain dress codes, such as wearing a veil, may be subject to discrimination and harassment amounting to persecution.

Failure to abide by the behavioural codes set out for women may be perceived as evidence that a woman holds unacceptable religious opinions regardless of what she actually believes about religion.

A woman's religious identity may be perceived to be aligned or shared with that of other members of her family or community. Imputed or attributed religious identity may therefore be important.

There may be considerable overlap between religious and political persecution. An example of this is where the state supports or favours a particular religious belief or tolerates or otherwise fails to provide protection against the activities of non state agents who are supporters of a particular religious belief.

#### **4.4 Nationality**

The term 'nationality' does not only mean 'citizenship'. It can include membership of an ethnic or linguistic group and may overlap with 'race'.

Whilst actual or attributed national identity is not specific to women, it may operate in tandem with gender to explain why a woman fears persecution. For example, women may be deprived of full citizenship rights in certain circumstances, if they marry a foreign national. In such circumstances it may be necessary to consider what harm results from this loss and whether it amounts to persecution on the basis of nationality.

#### **4.5 Membership of a Particular Social Group (PSG)**

Many women who are persecuted will be covered by other Convention grounds i.e. race, religion, nationality and political opinion, whether actual or imputed. In some cases gender may be a factor in recognising membership of a particular social group or an identifying characteristic of such a group (see the section on membership of a PSG in the AI on [Considering the protection \(asylum\) claim and assessing credibility](#)).

A definition of what constitutes a PSG is provided in Article 10(d) of the Qualification Directive, which states that:

“A group shall be considered to form a particular social group where, in particular:

- members of that group share an innate characteristic, or a common background that cannot be changed, or share a characteristic or belief that is so fundamental to identity or conscience that a person should not be forced to renounce it, and
  
- that group has a distinct identity in the relevant country, because it is perceived as being different by the surrounding society.”

(NB In section 6 of the 2006 Qualification Regulations, the words 'in particular' were replaced with 'for example').

The PSG guidance in the Asylum Instruction [Considering the Asylum Claim](#) sets out an approach to identifying the existence of a social group which is in accordance with the judgments of the UK courts, most significantly in the House of Lords judgments in the cases of [Shah & Islam \[1999\] UKHL 20](#) and of [Fornah v SSHD \[2006\] UKHL 46](#).

In *Shah and Islam* it was found that women in Pakistan constituted a particular social group. This was because women shared the same immutable characteristic of gender, they formed a distinct group in society as evidenced by widespread discrimination in their fundamental rights and the state did not give them adequate protection as they were not seen as entitled to the same human rights as men. In *Fornah*, in allowing an appeal against the Court of Appeal's findings, the Lords did not consider that 'young women in Sierra Leone' constituted a particular social group (PSG) but accepted that 'uninitiated' or 'intact' women in Sierra Leone did form a PSG.

Examples of innate or immutable characteristics may include gender, age, marital status, religion, family and kinship, past economic status/class, occupational history, disability, sexual history, sexual orientation and ethnic, tribal or clan affiliation.

There are cases where women are persecuted solely because of their family or kinship relationships, for example, a woman may be persecuted as a means of demoralising or punishing members of her family or community, or in order to pressurise her into revealing information.

As set out in the case of *Fornah*, women who may be subject to FGM have been found by the courts in some circumstances to constitute a PSG for the purposes of the 1951 Convention. Whether a particular social group exists will depend on the conditions in the "society" from which the applicant comes. It is frequently the way in which society perceives the group as having a distinct identity and being different from the surrounding society that helps to define the PSG. If there is a well-founded fear, which includes evidence that FGM is knowingly tolerated by the authorities or they are unable or unwilling to offer effective protection, and there is no reasonable possibility of internal flight, an applicant who claims that she would on return to her home country suffer FGM may therefore qualify for refugee status.

The fact that a PSG may consist of large numbers of the female (or male) population in the country concerned is irrelevant - race, religion, nationality and political opinion are also characteristics that are shared by large numbers of people.

Case owners who consider that an applicant may form part of a PSG which has not yet been recognised within existing caselaw and country guidance (ie Operational Guidance Notes) should discuss their conclusions with a senior caseworker. Similarly, where representations from the applicant or legal

representatives seek recognition of a PSG, case owners should first discuss the arguments with a senior caseworker.

#### 4.6 Political Opinion

Political opinion should be understood in the broad sense, to incorporate any opinion on any matter in which the machinery of State, government, society or policy may be engaged. Holding political opinions different from those of the government is not in itself a ground for refugee status. An applicant must show that they have a fear of persecution for holding such opinions or that they are unable to access protection as a result of that fear. Persecution 'for reasons of political opinion' implies an applicant holds an opinion that either has been expressed or has come to the attention of the authorities. There may, however, also be situations in which the applicant has not given any expression of their opinions.

Persecution "for reasons of" political opinion is typically seen in terms of male experience i.e. due to direct involvement in conventional political activity such as membership of a political organisation. Claims on these grounds will often involve an openly expressed opinion, which is directed against and is not tolerated by the state.

Whilst women may be involved in such conventional political activities and may raise similar claims to those made by men, this does not always correspond to the experiences of women in some societies. The gender roles in many countries may mean that women are often involved in so-called "low level" political activities, for instance hiding people, passing messages or providing community services, food, clothing or medical care. Case owners should beware of equating these lower-profile political activities with low risk. The response of the state to such activity may be disproportionately persecutory because it may be considered inappropriate for women to be involved at all.

Such activities may indeed be the outward expression of a political opinion, although it is not necessary for a person to have formed a specific opinion in their own mind in order for their actions to imply that they hold a political opinion.

Furthermore a person may be attributed a political opinion that they do not actually hold – women may be attributed the same political views as their male relatives. In these circumstances it may be helpful to look at what motivates the persecutor. For instance a woman who is forced to provide food for a rebel group may be treated as an opponent and attributed a political opinion by the State even though she does not support the group.

It is important not to underestimate or overlook the political dimensions of women's experiences of persecution even though a woman may not regard herself as making a political statement. Non-conformist opinions or behaviour may in certain circumstances be the expression of a political opinion or may result in a woman having a political opinion attributed to her whether she

holds one or not. For instance opposition to institutionalised discrimination against women in society or expressing views in opposition to the predominant social or cultural norms may be seen to constitute a political opinion. Non-conformist behaviour in certain cultures such as refusing to wear a veil, pursuing an education or choosing a partner could also lead to a woman having a political opinion attributed to her.

Each case must be considered on its individual merits and will be dependent on the facts and the context on which it is based. For instance, in a moderate Muslim society a woman who chooses not to wear a veil may be frowned upon by certain sections of society but her action is not necessarily perceived to be political. In a strict Muslim society, where all women are required by the State to wear a veil, a woman who refuses could be attributed a political opinion due to her actions and may be persecuted for this reason.

## INTERNAL RELOCATION

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### 5.1 General

In accordance with Article 8 of the Qualification Directive and paragraph 339O of the Immigration Rules, the application for refugee status should be rejected if there is a part of the country of origin to which the applicant can relocate where they would not have a well-founded fear of persecution or would not face a real risk of suffering serious harm and they can reasonably be expected to stay there having regard to the general circumstances prevailing in that part of the country and to the personal circumstances of the applicant. Please see the Asylum Instruction on [Internal Relocation](#).

### 5.2 Individual assessment

The question to be asked is whether the applicant would face a well-founded fear of persecution or real risk of serious harm in the place of relocation, and whether it is reasonable to expect the individual to travel to, and stay in that place. Even where country information and guidance suggest that relocation is possible, the ability of the **individual** to relocate in practice must be assessed and these issues should be explored at the interview for a sound decision to be reached. While it remains the responsibility of the applicant to establish a well founded fear of persecution or real risk of serious harm in the country of origin, the decision maker needs to demonstrate, if refusing asylum on these grounds, that internal relocation is reasonable/not unduly harsh, having regard to the individual circumstances of the applicant and the objective country of origin information.

This means taking account of factors relevant to the individual and the country concerned, for example the means of travel and communication, cultural traditions, religious beliefs and customs, ethnic or linguistic differences, health facilities, employment opportunities, supporting family or other ties (including childcare responsibilities and the effect of relocation upon dependent children), and the presence and ability of civil society (eg non-governmental organisations) to provide practical support.

In certain countries, financial, logistical, social, cultural and other factors may mean that women face particular difficulties. This may be particularly the case for divorced women, unmarried women, widows or single/lone parents, especially in countries where women are expected to have male protection. Women may also face a particular form of discrimination in the place of relocation and thus be unable to work so that they cannot survive in the place of relocation.

Where the fear is of members of her family, relocation is clearly not appropriate if the situation a woman would be placed in would be likely to leave her with no alternative but to seek her family's assistance and thus re-expose her to a well-founded fear of persecution or a real risk of serious harm.

Case owners should consider whether the applicant, if unaccompanied, would be able to safely access the proposed relocation area. Gender specific risks include the risk of being subjected to sexual violence.

As explained in the AI on [Internal Relocation](#), if the applicant has a well founded fear of persecution or real risk of serious harm in one part of the country of return and it is not reasonable to expect them to live in another part of that country, they should be granted asylum or Humanitarian Protection rather than another form of leave.

## TRAFFICKING

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Trafficking involves the movement of a person into a situation of exploitation using deception and/or coercion. Although most victims of trafficking will have been brought to the UK illegally, case owners should be mindful not to confuse trafficking with illegal migration or human smuggling where the migrant consents to their movement.

A claim for international protection presented by a victim or potential victim of trafficking can arise in a number of distinct sets of circumstances. The victim may have been trafficked abroad, may have escaped her or his traffickers and may seek the protection of the State where she or he now is. The victim may have been trafficked within national territory, may have escaped from her or his traffickers and have fled abroad in search of international protection. The individual concerned may not have been trafficked but may fear becoming a victim of trafficking and may have fled abroad in search of international protection. In all these instances, the individual concerned must be found to have a “well-founded fear of persecution” linked to one or more of the Convention grounds in order to be recognised as a refugee.

That a person has been trafficked is not, in itself, a ground for refugee status. However some trafficked women may be able to establish a Convention reason (such as a membership of a particular social group) and have valid claims to refugee status. Forced recruitment of women for the purposes of forced prostitution or sexual exploitation is a form of gender-related violence and/or abuse and may amount to persecution. In addition, trafficked women may face serious repercussions upon their return to their home country, such as reprisals or retaliation from criminals involved in trafficking rings or individuals, or discrimination from their community and families. Trafficked women may also face real possibilities of being re-trafficked.

Each case should be considered on its individual merits and in the context of the country on which it is based. Where it is accepted that an individual is a potential victim of trafficking (PVoT), the individual is allowed a 45 day reflection period to recover and consider their options. The PVoT cannot be detained on immigration grounds or removed during this period but may be interviewed for asylum or humanitarian protection purposes and notified of the decision. Where an applicant has been recognized as a potential victim of trafficking (PVoT) and granted the 45 day recovery and reflection period, there may be some instances where the asylum interview may be postponed for a short while.

For further guidance on handling claims where the applicant has or is believed to have been trafficked into the UK for sexual or economic exploitation, see the Asylum Instruction on [Trafficking](#).



# INTERVIEWING AND ASSESSMENT OF CREDIBILITY

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## 7.1 The Interview

Case owners should, prior to the interview, have familiarised themselves with country of origin information on the role, status, and treatment of women in the country from which a woman has fled. Establishing the material facts of a claim and the credibility or otherwise of past experiences and the various aspects of the reasons for seeking asylum or humanitarian protection is essential in assessing the merits of the claim. It is therefore important that an interview is conducted sensitively, thoroughly, and that relevant issues are clarified with the applicant.

Each applicant will have been asked at screening to indicate a preference for a male or female interviewer, and it should normally be possible to comply with a request for a male or female interviewer or interpreter that is made in advance of an interview. Requests made on the day of an interview for a male or female interviewer or interpreter should be met as far as is operationally possible.

All applicants are normally interviewed alone (or in the company of a legal representative). However where an applicant wishes to bring a friend or other companion to their interview to provide emotional or medical support they may do so at the discretion of the interviewer on condition that they are there to provide medical or emotional support and will not intervene in any way at the interview.

For those without satisfactory childcare arrangements of their own, each UK Border Agency regional office has its own arrangements in place to ensure that children are not present when parents are interviewed about their reasons for seeking asylum. This can include rescheduling the asylum interview date to accommodate childcare arrangements, or the provision of childcare at or near UK Border Agency premises.

A reassuring environment will help to establish trust between the interviewer and the claimant, and should help the full disclosure of sensitive and personal information. A difficulty in providing information relevant to an asylum or humanitarian protection claim may not of itself undermine credibility. In certain cultures men do not share information about their political, military or even social activities with their female relatives and decision-makers should consider whether this might account for gaps in a woman's knowledge.

## 7.2 Credibility

While the substantive asylum interview represents the applicant's principal opportunity to provide full disclosure of all relevant factors, the disclosure of gender-based violence at a later stage in the determination process should not automatically count against her or his credibility. There may be a number

of reasons why an applicant may be reluctant to disclose information, for example feelings of guilt, shame, and concerns about family honour, or fear of traffickers or having been conditioned or threatened by them.

Interviewers should be sensitive to the fact that gender and cultural norms may play an important role in influencing demeanour, for example, how a woman presents herself physically at interview e.g. whether she maintains eye contact, shifts her posture or hesitates when speaking. Demeanour alone is an unreliable guide to credibility.

Women who have been sexually assaulted and/or who have been victims of trafficking may suffer trauma. The symptoms of this include persistent fear, a loss of self-confidence and self-esteem, difficulty in concentration, an attitude of self-blame, shame, a pervasive loss of control and memory loss or distortion. Decision-makers should be aware of this and how such factors may affect how a woman responds during interview. (For further guidance see the AI on [Conducting the Asylum Interview](#)).

For victims of rape or sexual violence, it is not necessary to obtain precise details about the act itself. However, information should be obtained about the events leading up to and following the assault, the context in which it took place as well as the motivation of the perpetrator (if known). It should be noted that a victim may not always be aware of the reasons for the assault or the identity of the attackers.

Case owners may, if necessary, provide applicants with sufficient time to submit psychological or medical evidence where trauma may affect the applicant's ability to recollect events consistently or otherwise support the applicant's account, in particular where an applicant's account is doubted.

A woman may initially decide not to make an asylum claim in her own right for various reasons such as that official matters are generally dealt with by the man in the family or for fear of disclosing information which could bring the family into disrepute. Where a woman is being registered as a dependant in an asylum application, she is informed in private at her screening interview of her right to make her own independent application for asylum.

Where, despite earlier possibilities, a female applicant makes an independent application for asylum after the application in which she was listed as a dependant has been rejected, the consideration and interview of applicants in this position will require careful enquiries to establish why she did not make an application in her own right initially. Guidance on the handling of applications made by former dependants of principal applicants is available in the AI [Applications for asylum by former dependants](#) (under revision). Caseworkers should consider cultural, religious and other factors in assessing whether the applicant's credibility is damaged as a result of the timing of the claim under section 8 Asylum and Immigration (Treatment of Claimants) Act 2004.

## THE DECISION

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Having established the past and present facts of a claim – by assessing the internal and external credibility of each material claimed fact and applying the principle of the benefit of the doubt where appropriate - case owners will then need to consider if there is a future risk of persecution, and if the criteria for refugee status, humanitarian protection or discretionary leave apply to the applicant. In assessing the risk on return, it should be noted that the applicant's gender can also put her or him at greater risk of persecution, for example: the greater risk that women and girls may face of being subjected to sexual or gender related violence in civil disturbance or armed conflict. (See AI on [Considering the protection \(asylum\) claim and assessing credibility](#); and the Interim Casework Instruction on Humanitarian Protection and Article 15c of the Qualification Directive).

The decision-maker needs to assess objectively whether there are reasonable grounds for believing that the applicant would, if returned to the country from which they seek refuge, face persecution. It is important to consider fully relevant objective evidence including any medical evidence and the objective country of origin information. The absence of objective information to corroborate a claimant's account may be an important factor, but should not necessarily be taken to mean that human rights abuses do not occur. For instance, systematic abuse of a certain group would usually be documented, but isolated acts of ill treatment perpetrated by one person on another would not.

Where relevant information cannot be obtained from Country of Origin Information Service country reports or COIS compilations, decision-makers should consult a senior caseworker and send a case specific research request to the Country of Origin Information Service.

## Document Control

### Change Record

Version	Authors	Date	Change Reference
1.0	Sarah Parry	22/02/07	New web style implemented
2.0	Bill Gale	24/09/10	Revised document

### Review

Reviewed By Name	Date	Position

### Issue Control

Approved for Publication by Name	Date	Role
Iain Walsh	02/10/07	AAPD
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