

# Women for Refugee Women

## Evidence for the Parliamentary Inquiry into Detention

8 July 2014

### Background information:

1. Women for Refugee Women (WRW) is a charity which works with women who have sought asylum in the UK. We support two grassroots groups in London: Women Asylum Seekers Together London and the London Refugee Women's Forum, and we also work with similar groups throughout the UK. We work with the mainstream media, with arts organisations, and with women's organisations including the Women's Institute, to try to ensure that refugee women's voices are heard by wide audiences and to challenge the injustices experienced by refugee women.
2. In January 2014 we published a report: *Detained: women asylum seekers locked up in the UK*. This report was based on primary research we carried out among 46 women who had sought asylum and were currently or recently (in the previous 2 years) detained. It was also based on statistics supplied to us from the Home Office. Much of the evidence of this document is based on this report, so we attach it for reference.

**It is important to clarify that WRW only works with women who have sought asylum in the UK. We are concerned about the experiences of women who come to this country seeking protection and find themselves locked up.**

**We have chosen to concentrate in this submission on three main areas: the detention of survivors of rape, sexual violence and torture; the impact of detention; and women's experiences of staff behaviour at Yarl's Wood.**

### Summary:

3. **Numbers:** In 2012 6071 women came to the UK seeking asylum in their own right, and 1,902 women who had sought asylum were detained.<sup>1</sup> 429 of these women were held in the Detained Fast Track, which is meant to be used only for 'straightforward' cases.<sup>2</sup>
4. **Detention of survivors of rape and torture:** For our report *Detained*, we spoke to 46 women who had been currently or recently detained after seeking asylum. We found that 33 women, or 72%, said that they had been raped, and 19 women, or 41%, said that they had been tortured. 40 women, more than 85%, had been either raped or tortured.<sup>3</sup> This routine detention of survivors of rape and other torture is contrary to the stated policy of the Home Office.
5. **Time:** Of the 1,867 women who sought asylum and left detention in 2012, 40% were detained for more than a month. 47 women were held for more than 6 months, 9 women were held for more than one year, 2 were held for more than 2 years.<sup>4</sup>

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<sup>1</sup> Figures supplied by the Home Office to Women for Refugee Women.

<sup>2</sup> Figures supplied by the Home Office to Women for Refugee Women.

<sup>3</sup> *Detained: women asylum seekers locked up the UK*, Women for Refugee Women, 2014. All further references to our research in this document are to this report unless otherwise stated.

<sup>4</sup> Figures supplied by the Home Office to Women for Refugee Women.

6. **Detained Fast Track:** 429 women were taken into the Detained Fast Track in 2012, and only 20, or 5%, were granted leave to remain at the initial decision.<sup>5</sup> We spoke to 12 women who had been placed on the fast track for our research. We found that all but one said they were survivors of rape or torture.
7. **Mental health impact:** Detention has an extremely negative impact on the mental health of women who have already fled persecution. All of the women in our sample told us that detention made them unhappy, 93% felt depressed, 85% felt scared and more than half thought about killing themselves. Ten women, more than one in five, said they had tried to kill themselves in detention and one in three said she had been on suicide watch.
8. **Healthcare:** Most of the women we spoke to (62%) described the healthcare in Yarl's Wood as 'bad' or 'very bad'. We heard cases of anti-depressants being withheld, leading to increase in mental health problems, and interruptions in healthcare even for those suffering severe conditions including cancer. We spoke to one woman who was detained during her pregnancy who suffered severe untreated hyperemesis (sickness and vomiting).
9. **Staff:** There have been recent allegations of sexual assault in Yarl's Wood Immigration Removal Centre and these demand full investigation. There is also a wider problem in the effect that the presence and behaviour of male custody staff has on female survivors of sexual violence. 40 of the 46 women we spoke to for our research said they had been guarded by male staff in detention and 70% said this had made them uncomfortable. 50% said a member of staff had verbally abused them. Women spoke about men bursting unannounced into their rooms and those on suicide watch talked about men watching them even when they were in bed or in the bathroom. In our sample, three women said they had been physically assaulted and one said she was sexually assaulted by staff at Yarl's Wood.
10. **Outcomes:** Although it is often stated that detention is necessary to facilitate removal, in fact of the 1867 women who had sought asylum and left detention in 2012, only 674, or 36%, were removed from the UK.<sup>6</sup> The others were released back into the community. This unnecessary detention is unjust, costly and harmful.
11. **Recommendations:** We believe that detention has no place in the asylum process and that women who seek sanctuary in the UK should not be detained. Their cases can be heard while they are living in the community at much less cost and with less trauma to the asylum seekers themselves. For more detailed recommendations see below, paragraph 39.

#### A: Detention of survivors of rape, gender-related persecution and torture

12. Those seeking asylum may be detained at any point in the asylum process. Detention is meant to be used for only asylum seekers in particular circumstances – especially where there is risk of absconding or criminal behaviour, or where removal is imminent. Or, it can be used for cases deemed straightforward which can be routed into the Detained Fast Track. But there is a glaring gap between policy and practice. Women are detained during the asylum process even if there is no evidence of absconding or offending; they are routed into the DFT even if they have

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<sup>5</sup> Figures supplied by the Home Office to Women for Refugee Women.

<sup>6</sup> Figures supplied by the Home Office to Women for Refugee Women.

complicated experiences of persecution; and they are held for long periods even when they cannot and should not be deported.

13. For our report *Detained*, we spoke to 46 women who had been currently or recently detained after seeking asylum. We found that 33 women, or 72%, said that they had been raped as part of the persecution they were fleeing, and 19 women, or 41%, said that they had been tortured. 40 women, more than 85%, said that they had experienced either rape or torture.
14. A very high proportion of the women we spoke to who experienced detention had fled gender-related persecution (following the definition by the UNHCR that the term can 'encompass the range of different claims in which gender is a relevant consideration').<sup>7</sup> 43 of the 46 women we spoke to who had recent or current experience of detention had experienced gender-related persecution in their home countries, including rape, sexual violence, forced marriage, female genital mutilation and forced prostitution. A majority, 52%, of the women we spoke to who had been currently or recently detained said that they were persecuted 'Because I am a woman.'<sup>8</sup> Eight, or 18%, of the women we spoke to said they were persecuted because they are lesbians.
15. 24% of the detainees we spoke to had been raped by police, soldiers or prison guards as part of the persecution they were fleeing. For instance, one woman was arrested by government forces in Eastern Democratic Republic of the Congo, held in a prison with her legs tied apart and raped repeatedly over weeks. One woman was arrested and raped by police in Cameroon as punishment for being a lesbian. Many of the experiences described to us of rape by state actors would be considered to amount to torture under the accepted definition even if the individuals themselves did not use this description.
16. Other experiences of rape and sexual violence that women were fleeing occurred in the private sphere in situations where the women believed their own state would not protect them. For instance, one woman from the Gambia was forced to marry a much older man who already had two wives, by her uncle who was indebted to him. He was violent to her and when she reported him to the police they refused to help her. There is case law to show that this kind of gender-related persecution may be considered grounds for asylum if the state provides no protection and there is risk of further persecution if the woman is returned.
17. 41% of the detainees we spoke to said that they had experienced torture in their home countries. For instance, one woman detained in the UK had been starved and refused water by prison guards for four days in Ethiopia. 23% of the detainees we spoke to had experienced arrest or imprisonment in their home countries, and 39% had experienced violence from soldiers, police or prison guards.
18. In the policy instructions to Home Office staff on who should not be considered suitable for detention,<sup>9</sup> there is no mention of survivors of rape and sexual violence. This is a glaring omission. UNHCR guidelines on detention state that: 'Victims of torture and other serious physical, psychological or sexual violence also need special

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<sup>7</sup> UNHCR, *Guidelines on International Protection: Gender-related persecution in the context of the 1951 Convention and/or its 1967 Protocol relating to the status of refugees*, Geneva 2002, p2

<sup>8</sup> For more on gender-related persecution and the experiences of women in the asylum process, please see Women for Refugee Women, *Detained: women asylum seekers locked up in the UK*, and *Refused: the experiences of women denied asylum in the UK*, and Asylum Aid, *I Feel As A Woman I'm not Welcome*, 2012

<sup>9</sup> Home Office, *Enforcement Instructions and Guidance, Detention and Removals*, Chapter 55:10

attention and should generally not be detained.<sup>10</sup> The Istanbul Convention of the Council of Europe on violence against women states: 'Parties shall take the necessary legislative or other measures to develop gender-sensitive reception procedures and support services for asylum-seekers as well as gender guidelines and gender-sensitive asylum procedures.'<sup>11</sup>

19. However, the routine detention of survivors of torture is already contrary to the Home Office's own policy on detention. The relevant policy states: 'The following are normally considered suitable for detention in only very exceptional circumstances... Those where there is independent evidence that they have been tortured'.<sup>12</sup>
20. But in practice survivors of torture are being detained at any point in the asylum process. We have met many women who have stated at the time of detention that they are survivors of torture and yet their experiences have simply been ignored. For instance, one woman who was a survivor of repeated rape as torture by government forces in Eastern Congo was taken into detention in 2013 before her substantive interview even though she had stated in her screening interview the reasons why she had left her country.
21. If survivors of torture are detained, they are meant to be identified through the Rule 35 process, by which medical staff in detention are meant to examine the individual and send a report to the Home Office caseworker who is supposed to review the detention and decide whether to order release. From our experience, the Rule 35 process is unfit for purpose, and is currently serving as a figleaf for the practice of routine indefinite detention of survivors of torture.
22. In practice, it is extremely easy for a survivor of rape and other torture to be detained, and there are often insurmountable barriers to her release. These barriers include the fact that survivors of rape and sexual violence as torture find it hard to disclose their experiences, and this is particularly true of women faced with male healthcare staff in a prison setting. They also include the response of healthcare staff in detention: women have spoken to us of the inappropriate responses of healthcare staff in Yarl's Wood when they try to raise their experiences of rape and other torture. Even if medical staff do raise concerns with caseworkers, this evidence is routinely dismissed. Rule 35 provides no protection for survivors of torture.
23. The detention of survivors of rape and sexual violence runs counter to initiatives by other government departments. The Foreign and Commonwealth Office is working to end sexual violence in conflict by protecting survivors and bringing perpetrators to justice. It is irrational for the Foreign Office to be working on this while Home Office policy retraumatises those who have to cross borders to find safety.
24. The Home Office's own *Action Plan: A Call to End Violence against Women and Girls* states that it will: 'Work with key stakeholders to improve the processes for referring asylum seekers who are victims of sexual violence to appropriate services and signpost women and girls to available information and advice.' The routine detention of survivors of sexual violence makes this impossible to implement.

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<sup>10</sup> UNHCR, *Detention Guidelines*, Guideline 9.1. 2012

<sup>11</sup> Council of Europe, *Convention on preventing and combating violence against women and domestic violence*, April 2011

<sup>12</sup> Home Office, *Enforcement Instructions and Guidance, Detention and Removals*, Chapter 55:10

25. This is not to argue every woman who says she has survived rape, other gender-related persecution or other torture should automatically be given asylum in the UK. There must be a process by which her claim is assessed and the Home Office and courts can decide whether or not her experiences lie within the definition of persecution laid down by the Refugee Convention and whether she would be at risk if returned. However, people who have experienced such abuses should be treated with respect and allowed to rebuild their lives while their claims are being considered. Detention is antithetical to a dignified and transparent asylum process and is extremely harmful to individuals.

## **B: The Impact of Detention**

### **Mental health**

26. One of the clearest findings from our research is that the experience of detention is extremely distressing to women who come to the UK to seek protection. The term 'immigration detention' may sound less serious than imprisonment, but in fact women experience it as imprisonment of a particularly cruel kind, because most of them they have little idea why they are imprisoned and none of them know when they will be released.
27. Every single woman who had been detained whom we spoke to said that she felt unhappy in detention; most said that they felt lonely and scared, and 28 women, more than half, said that they thought about killing themselves. Ten women, one in five, said that they had tried to kill themselves in detention and 14 of the women had been on suicide watch in detention.
28. For women who have experienced rape, violence, imprisonment and torture in their countries of origin, detention forces them to relive their trauma with consequent deterioration of their mental health. They are also affected by the trauma being experienced by those around them.
29. It is well documented from other sources that asylum seekers have a higher prevalence of mental health problems than other groups. Studies have also shown the relationship between detention and mental illness as well as between seeking asylum and mental illness. Detention centres have been shown to cause significant deterioration of mental health, including anxiety, post-traumatic stress disorder and depression, with symptoms becoming more pronounced the longer the person is detained.<sup>13</sup>
30. The women we spoke to told us about dismissive responses from healthcare staff when they raised mental health problems. There have been four recent cases in the High Court where it was ruled that the care of four people with mental health problems held in immigration detention breached Article 3 of the ECHR, amounting to inhuman and degrading treatment. Recently, a former mental health nurse has spoken out about the poor mental healthcare at Yarl's Wood, saying: 'The system wasn't driven for mental health. It was more driven about, 'Are they fit to fly,

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<sup>13</sup> For references for peer-reviewed studies on these issues, please see *Detained: women asylum seekers locked up the UK*, Women for Refugee Women, pages 35 and 36

physically?...Particularly around mental health, safeguarding and risk there were serious issues, serious gaps.’<sup>14</sup>

## **Health**

31. A large majority, 38, of the women in our sample, told us that they had health issues while in detention. The most frequently mentioned problem was mental health, but there was a range of physical problems, from 9 women with high blood pressure to 6 with diabetes, 1 with tuberculosis, 1 with pregnancy-related hyperemesis and 1 who had cancer. Most of the women we spoke to rated the healthcare in detention as bad or very bad (62%) and many of them spoke about a culture of disbelief among healthcare staff.

## **Indefinite detention**

32. One of the hardest things for the women we spoke to was the indefinite nature of detention. 40% of women who left detention after seeking asylum in 2012 were detained for more than a month. One woman we spoke to who had been raped and beaten for her sexuality in Malawi before fleeing to the UK said: ‘The most depressing thing is that you don’t know how long you’re going to be here or if you’ll still be here tomorrow.’

## **Outcomes**

33. Detention is usually presented to the public as an efficient way to control and remove migrants and failed asylum seekers. However, as well as being extremely costly it is also objectively poor at achieving its desired outcomes of removal. Of the 1867 women who had sought asylum who left detention in 2012, only 36% were removed from the UK.

34. For the women who leave asylum to re-enter UK society, detention is not a trivial experience. It can have a longlasting negative impact on their mental health and ability to rebuild their lives. One woman we know well, a survivor of rape as torture, was detained in Yarl’s Wood on three occasions, once being released into hospital because she stopped eating in detention. She was released from detention for the last time 8 years ago. She now has refugee status. ‘I still remember it – I dream about it,’ she told us, ‘and every Friday I still feel sick, because it was Fridays I had to sign on and that is when they took me.’

## **C: Yarl’s Wood staff**

35. There has recently been a great deal of discussion about the allegations of sexual abuse at Yarl’s Wood and the way that these allegations were investigated by Serco. We hope that this inquiry will take evidence directly from those affected, their lawyers and the management of Serco.

36. Alongside the issues of sexual abuse, it is important to look at the wider picture of staff behaviour in Yarl’s Wood, and the effect of the presence of male custody staff on women who are detained. 40 of the 46 women we spoke to said that they had

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<sup>14</sup> ‘Whistleblower’s concerns over safety at Yarl’s Wood’, BBC File on Four, June 2014

been guarded by male staff and 70% of these said that this made them uncomfortable. Half of the women we spoke to said that a member of detention centre staff had abused them with something that they had said. Ten women said that a member of staff had been racist to them. Three women told us that they had been physically assaulted by a member of staff in detention.

37. Of particular concern is the way that women spoke about male staff entering their rooms without warning and watching them in their bedrooms and even bathrooms when the women were on suicide watch. For women who are survivors of male sexual violence, this practice is extremely distressing.
38. One woman, who told us that she had been raped and tortured by soldiers in Uganda, had been detained even though she had a fresh claim pending. She said, 'When I was on suicide watch the door was left open even when I went to the toilet the door had to be kept open and a male guard was watching me. I complained about it but nothing happened.'

### **Recommendations:**

**39. Detention has no place in the asylum process and individuals who seek sanctuary in the UK should not be detained while their cases are being considered. Their cases can be heard while they are living in the community at less cost and with less trauma to the asylum seekers themselves.**

40. On the way to making this a reality, we recommend some immediate steps:
41. Survivors of rape, sexual violence and torture should never be detained while their cases are being considered. The enforcement instructions on detention should be changed to ensure that those who raise rape, sexual violence and torture in their asylum claim are never detained. It should not be required for people to find independent evidence of their torture during detention; the presumption should be never to detain anyone who raises these experiences.
42. Pregnant women should never be detained.
43. There are such serious flaws in the Detained Fast Track screening process and in asylum seekers' ability to get a fair hearing in the fast track that this process should be ended.
44. If detention is considered essential to effect removal, it should be for the shortest possible period of time and only after alternatives to detention have been tried. There should be an upper time limit on all immigration detention. There may be useful learning from the reforms carried out for family returns after the government announced an end to the detention of children.
45. There should be no male staff employed at Yarl's Wood in custodial roles. The impact on women detained of men in positions of power and in close proximity makes it proportionate to apply this requirement under Schedule 9, para 1, Equality Act 2010.

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