

Research by the Asylum Support Appeals Project (ASAP)
September 2011



**BARRIERS TO
SUPPORT APPEALS
FOR ASYLUM-
SEEKING WOMEN**

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About ASAP

ASAP is a small national charity specialising in asylum support law. Our aim is to prevent the destitution of asylum seekers by defending their legal entitlement to food and shelter. We do this by running a full-time duty scheme at the First Tier Tribunal (Asylum Support) in East London, which provides free legal advice and representation to destitute asylum seekers who have been refused housing and subsistence support or had support withdrawn.

We also run an advice line and training on asylum support law for advice workers and legal practitioners, and engage in policy, advocacy and litigation to influence and change policy and practice.

Set up in 2003, ASAP staff and pro bono legal advocates now assist about 600 asylum seekers at the Tribunal every year, significantly increasing their chances of securing support. An independent report by the Citizens Advice Bureau in 2009 concluded that ASAP representation increased asylum seekers' chances of a successful appeal outcome by 32%.¹

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¹ Supporting justice: the case for publicly-funded legal representation before the Asylum Support Tribunal (CAB, 2009)

Introduction

The briefing is based on research carried out by the Asylum Support Appeal Project's Women's Project and is aimed at raising awareness about gender-related barriers to support among agencies working with destitute asylum-seeking women.

It explores barriers to the asylum support appeals system for asylum seeking women. It follows our observation over some years in providing free legal advice and representation to destitute asylum seekers at the asylum support tribunal that the number of women appellants attending hearings is consistently low. The asylum support appeals system is time pressured and complex and is not easy for anyone to access and navigate. We set out to explore whether factors such as language barriers, health issues and childcare responsibilities, might create additional difficulties for women.

Asylum support appeals

Destitute asylum seekers and refused asylum seekers can apply to the UK Border Agency (UKBA) for housing and subsistence support. If they are refused support or the support is discontinued – for example, for not complying with support conditions – they can appeal the decision to the asylum support tribunal.²

The appeals process is complex and begins by filling in a form, called an appeals notice, and sending it to the tribunal within five days of the UKBA's letter notifying them of the decision. The tribunal then writes to the appellant informing them of the hearing date – usually eight or nine days after appeal papers are received – and asks for a list of 'directions' or documents the appellant should bring to the appeal to prove their case for support.

On the day of the appeal, the appellant has to travel to the tribunal, which is located in Docklands, about a 30 minute journey by public transport outside of central London. If they live outside London, as many asylum-seeking communities do because of the government's dispersal policy, they can travel the day before and stay in UKBA accommodation on the outskirts of London. They are bused from here to the tribunal on the morning of the appeal. If for some reason the appellant cannot or does not want to attend the tribunal they can request a paper hearing. About a fifth of appeals at the tribunal are heard on the papers.³

Methodology

The briefing is based on research that consisted of three parts:

- 1 A snapshot survey of the daily tribunal listings between September and December 2010 to identify the number of women listed to attend oral hearings, number of women who received advice or support to make the appeal, and number of women compared to the number of men who received advice.
- 2 Interviews with 22 female appellants who attended appeal hearings at the tribunal between October 2010 and January 2011.⁴ Nineteen were interviewed face-to-face at the tribunal, while three interviews took place over the phone in the days immediately following hearings. The 22 women were all ASAP clients and all, bar one, were appealing decisions to refuse Section 4 support, which is aimed at preventing destitution among refused asylum seekers when it is unreasonable to expect them to leave the UK. Typically, the women were in their 20s and 30s, though three were in their 60s. They came from 14 countries, mostly regions with well-documented human rights abuses such as Zimbabwe, Democratic Republic of Congo, Eritrea, Iran and China. Over half were African nationals. Three quarters had mental and/or physical health problems. A third of the women had children.
- 3 Interviews with advice workers from six of the biggest agencies in the UK that assist women in appealing support decisions. The advice agencies that took part were: Boaz Trust in Manchester, Refugee Council Leeds, Refugee Council London, Refugee Action, Revive in Manchester, and the Scottish Refugee Council.⁵

Interviews with both individual appellants and advice agencies examined women's experience of the appeals process from accessing advice prior to the appeal, the journey to the tribunal and their experience of the hearing. The questionnaires also sought to explore what impact gender-related issues, as identified through our tribunal work, had on women's ability to participate in the process.

² There are strict criteria for qualifying for Section 95 and Section 4 support. For more information see ASAP factsheets at www.asaproject.org.uk

³ When appellants request paper appeals, the tribunal must be satisfied the appeal can be decided without oral evidence before agreeing to the request..

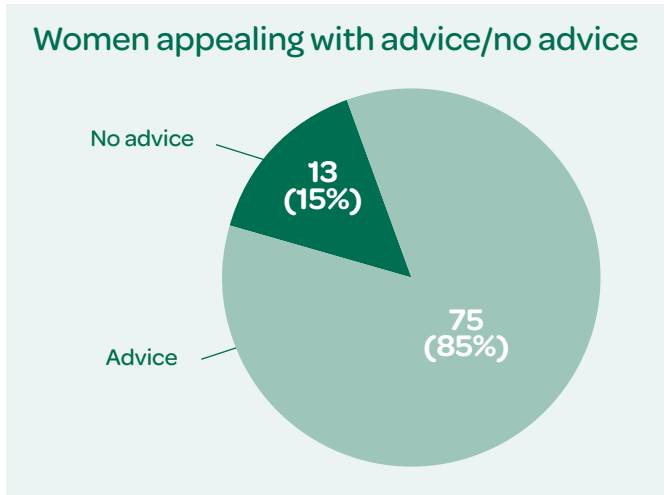
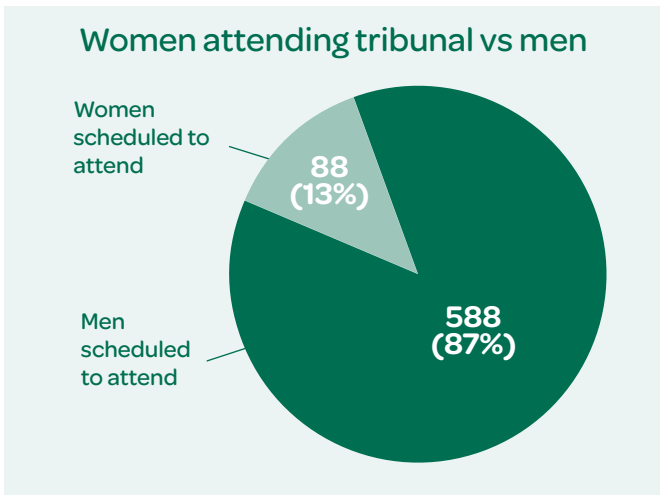
⁴ See Appendix.

⁵ Refugee Action fed back comments via email; the rest of the interviews were over the phone.

Number of women appellants

The research included a snapshot survey of the daily listings at the asylum support tribunal over a three month period to identify the number of women scheduled to appear in hearings. The listings give basic details about oral hearings, including the surname of appellant, type of appeal and language of appellant. Following a request last year from ASAP, the tribunal agreed to include the name of the appellant so it became possible for the first time to monitor the number of women appellants.

The survey amply demonstrates the low number of appeal hearings involving women at the tribunal. There were 676 oral appeal hearings listed during the surveyed period. Of these, just 88 or 13% of appellants were women. Most of these had been able to access some type of advice or support prior to the appeal, as 75 women were listed as having been assisted by an agency to appeal. Thirteen (15%) were appealing without advice. The percentage of men unassisted during this period was the same.⁶



Period	Scheduled to appeal			Those appealing with no advice		
	Total	Men	Women	Total	Men	Women
Sep-Dec 2010	676	588	88	101	88	13

⁶ Key stats from the snapshot survey which was carried out in the period from 24 September to 23 December 2010:

- 13.02% of appellants scheduled to appeal were women; 86.98% of appellants scheduled to appeal were men
- 14.94% of people scheduled to appeal were appealing without advice; 14.97% of men scheduled to appeal were appealing without advice; 14.77% of women scheduled to appeal were appealing without advice
- 12.97% of people appealing without advice were women; 87.13% of people appealing without advice were men.

Main barriers

The interviews with appellants and advice agencies identified a number of key barriers to asylum support appeals for women.

Health

More than three-quarters (17) of the appellants had mental or physical health problems covering a wide range of ailments, including HIV, renal failure, post-traumatic stress disorder, depression, high blood pressure, vitamin deficiency and back pain. Over half had two or more medical conditions. Fourteen women said health problems made it more difficult to appeal.

One woman with renal failure said the lack of toilet facilities made the journey difficult. Another pregnant appellant who found the journey stressful because of the three changes necessary en route, said: "The worst part was my back pain. I had a caesarean after my previous pregnancy so that caused it." Another woman being treated for depression found the experience overwhelming. "It makes me feel sad, like the whole world is on (its) head...I felt suicidal, could not sleep."

Agencies agreed health problems are a key barrier at different stages of the process, making it more difficult for women to access advice initially, cope with the process and travel to the appeal. There was consensus that the majority of women had health problems that made the appeal more urgent but difficult to cope with, while stress caused by the process exacerbated mental and physical health issues. "It's the extra pressure and weight that someone has to deal with," said one advice worker. "The appeals process is extremely difficult for someone so vulnerable. Health problems become circular: the process causes mental health problems."

Agencies said stress made it more difficult for women to give advice workers relevant information as it stirred up old traumas associated with the asylum process, which meant they were unable to focus on the issues, or unable to accept the advice given. "Stress will cause headache which causes more stress, particularly when they have a friend who has Section 4 support; they feel they should have it. They fail to understand the criteria, which causes more stress," one advice worker said.

Travel

The tribunal is based in Docklands, East London, and is not straightforward to get to from within London. Most of the women interviewed came from outside London and 17 found the journey difficult. Common problems were finding the way on public transport ("I got lost. I entered the wrong train and had to get off and take another one"), not being able to read English signs, and concerns for their safety ("Since I don't know the city I was afraid").

Agencies said many factors made women reluctant to travel to the tribunal. Childcare responsibilities and pregnancy were prominent. "Navigating the system is an incredible challenge," said one agency worker. "It is a lot to ask someone to travel to London, especially with more than one child...but children can be helpful in reinforcing a woman's story." Another said: "It is totally untenable for women who are pregnant and have to bring all their belongings along...Women are likely to resist, particularly in the late stages when they have had many

(medical) appointments. It is difficult to justify travelling."

Other barriers to travelling to the tribunal were fear of the unknown, travel costs (though these are paid for), and not being able to travel to London without a companion because of their vulnerability. Four of the appellants interviewed were accompanied to the appeal by a friend or a support worker. One agency said the location of the tribunal in Docklands is harder to access than its old location in Croydon as there are fewer refugee communities nearby that could offer assistance.

Childcare responsibilities and pregnancy

Eight women had dependent children in the UK⁷ – mostly young children under the age of 5 – and all were lone parents. Four brought the children to the appeal and said this made the experience more difficult. One appellant said: "I had all my belongings with me and a pushchair and children...very difficult." Another who had to bring her 3 year old twins said: "We had to wake up early (5 am), they wanted food, juice and the train was very busy."

Agencies said childcare created a large number of hurdles from making it difficult to travel to an agency for advice, let alone travel to London for the hearing, to not wanting to bring children to the tribunal as it has no childcare facilities. Women are told in advance of the hearing date by the tribunal that they are not allowed to bring children into the hearing, but in practice this does happen as there is no alternative. Conflicts with childcare could mean women who decided to appeal had to postpone the hearing date, prolonging their destitution.

Another barrier to appeal highlighted by most agencies was the Section 4 rule that allows refused asylum seekers who are pregnant to qualify for support only six weeks before their due date.⁸ "The due date is not static and can differ from woman to woman... Unfortunately strong medical evidence is required for the UKBA to consider otherwise (granting support earlier), leaving women longer without support while pregnant and potentially of no fixed abode, which has an effect on their health, eating habits, sleep pattern and stability."

CASE STUDY

'Sarah' brought her three children aged 1, 3 and 5 to the tribunal for her appeal. A first date had to be postponed because initially she did not get the correct travel tickets for the children. The journey was difficult because they had to walk to the station and it was stressful managing three small children on the train. The children went into the appeal hearing with Sarah as there was no one to look after them. During the hearing one of the children became disruptive, banged his head on the floor and started to cry. Then Sarah was asked to provide information about her previous accommodation, which involved discussing an incident when one of the children was assaulted. Not only did this make it difficult for Sarah to explain why the accommodation was unsuitable, it was inappropriate and upsetting.

⁷ A number of other women had children in their country of origin.

⁸ Pregnant refused asylum seekers may qualify for Section 4 support six weeks before and after their due date as it is not considered reasonable to expect them to leave the UK during this period.

← Fear of the process

Eight appellants said they were afraid of the appeals process. One woman said she was distressed by the experience. Four of those who said they were not scared attributed this to assistance by ASAP at the tribunal. Often the fear was focused on the tribunal judge or the UKBA. “Women do not want to come in front of a judge, they find it intimidating,” one said.

Agencies identified fear as a major issue. This was often from negative experiences of authority in countries of origin. “People fear judges and the police... It is difficult to explain it is different here, especially when interactions with officials have been so negative. It makes it difficult to trust the system.” Another worker said: “Women feel they are being punished if they ask for help. They associate courts with the criminal process, especially women who have been refused for non-compliance.” This could leave women reluctant to appeal decisions even when advised to, or more likely to request a paper appeal, which can be more difficult to succeed in, so they do not have to give evidence in front of a judge.

Another theme identified by agencies was that women were afraid to disclose how they had been surviving in the UK prior to applying for support, especially very vulnerable women who had little engagement with the system. They were afraid disclosure could lead to being detained or having their children taken away. Fear and distrust also left some women reluctant to disclose information to advice agencies, which in turn affected agencies’ ability to submit a successful appeal.

Access to advice

The survey identified that more than 80% of appellants at the tribunal over a three month period got help to appeal and all except one of the women interviewed received some form of assistance. A wide range of agencies were involved, including one stop services, Red Cross, solicitors, refugee agencies and community organisations (see Appendix).

Seventeen women were satisfied with the assistance. Reasons for dissatisfaction were typically difficulty finding advice, and advice in their own language, and agencies’ inability to help them with childcare and health issues. Agencies said good advice was critical to helping women overcome barriers to the appeals process. “It takes a good adviser to support someone through the process. It takes a lot of good advocacy and a strong understanding of the client group.”

Women could be less likely to seek advice and appeal decisions because of language barriers or lack of self-confidence. Power within relationships or culture could mean the process was managed by a husband, partner or other family members. “Culturally, women have played a backseat role all their life; making decisions is not up to them. Many are not used to running their lives. If there is anything that deters woman from getting advice on appeals, it is that.”

Some agencies advised more men than women; others advised roughly equal numbers. Reasons for the lower number of female appellants overall was that women may be dependent on a partner so are less likely to apply themselves, or might be more likely to be receiving Section 95 support or be supported by social services because of children.⁹

Understanding the process

Fourteen of the appellants interviewed were unable to understand the UKBA’s decision letter, either the decision itself or the reason for refusal. Of those who did, four needed help. So just three women stated without qualification they understood the UKBA’s letter. Confusion added to their distress. “Got the letter Saturday... shaky, crying, don’t understand why,” one of the women said.

Agencies said women need a lot of assistance to understand UKBA decisions. Many were shocked to find their support had been discontinued when they had “not done anything wrong”. A lack of clarity about the documentation or evidence required to back up initial support applications added to the confusion. Agencies said women were also inclined to confuse the asylum process with the asylum support process, which could make them reluctant to appeal the decision if they had had a difficult experience in the Asylum Immigration Tribunal.

The trauma of losing support could have knock-on effect on their asylum claim. “It stops women from building a good relationship with an immigration lawyer, which is the most important thing they can do. They confuse the support process with the asylum process.”

Trafficked women

One of the appellants interviewed was a trafficked woman while three agencies identified that trafficked women face particular barriers to support and the appeals process. There are a number of reasons for this. Women who have been trafficked are less able to meet the evidence threshold required for appealing a negative decision because they do not have ID or can be more reluctant to disclose past circumstances. They may also have money they want to hold on to out of fear of former traffickers.

Agencies are less likely to advise trafficked women to appeal because of these factors, while institutional barriers make it more difficult for them to navigate the system when they do. One adviser said a client had been refused support because she had money belonging to traffickers. “The UKBA wanted to evict her based on this even though she was unable to use the money and afraid to give it up because she feared her traffickers. After she was evicted she disappeared. There was so much stress on her. Having money is not always as straightforward as being able to make a deposit and pay rent, particularly in bondage cases. The UKBA’s approach doesn’t accommodate this.”

CASE STUDY

‘Anna’ was a young woman who had been trafficked when she was 14. In her interview she said it was difficult to find an advice agency to assist her with her appeal as she spent years living underground in the UK hiding from her traffickers. She had no form of identification or means of proving her identity so it was difficult to prove she qualified for support. It was also painful to explain her situation at the appeal hearing when she was asked about her past. “I lost my hope when the lady from the UKBA was asking questions – she was not having any of it. She asked me about the Poppy Project (an agency that provides support to trafficked women). It made me feel really bad... I had to say the things that happened to me... with the male judge... I was surprised when he said yes.”

⁹ Asylum-seeking women with dependent children can continue on Section 95 support if their asylum claim becomes exhausted, so long as their children are still living with them. Equally, while there is very limited local authority support for asylum seekers and refused asylum seekers, they do intervene if families with children are at risk of street homelessness.

Conclusion

The issues identified in the research back up the view ASAP has identified in working at the tribunal that there are gender-related barriers to the asylum support system. There was consensus among both appellants and agencies about what these barriers are.

The list is long and includes health problems, difficulties travelling to the tribunal, fear, childcare responsibilities and pregnancy, lack of childcare facilities at the tribunal, access to good quality advice and advocacy, poor understanding of the process, language barriers, and acute disengagement from the system because of trafficking. These factors increase practical barriers to the support appeals system as well as making it more difficult and stressful to navigate.

Interestingly, of the women appellants interviewed, 12 or slightly more than half said overall they thought it was more difficult for women to appeal support decisions than men (see page 9).

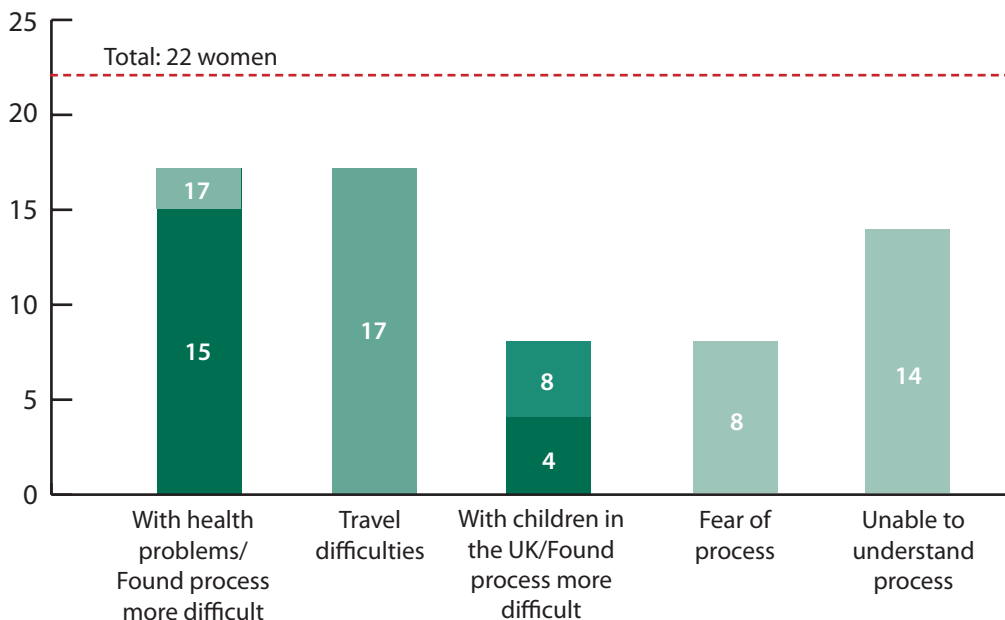
The research also prompts other questions. To what extent are cultural norms and gender inequalities acting as barriers to the support system? Are many more women being supported on Section 4 as dependents? Is the disparity in the number of women and men at the asylum support tribunal partly attributable to the fact that more women with children are being supported by Section 95 support and social services?" Further research is needed to explore these issues.

What is clear is that women will often need a lot of encouragement to exercise their right to appeal a negative support decision, and good quality advice and advocacy throughout the process is essential to enable women participate in the asylum support appeals system.

Recommendations

- The asylum support tribunal should publish gender disaggregated statistics to identify the number of women appealing support decisions via both oral hearings and paper appeals to improve information on gender inequality in the appeals system.
- The Home Office should publish gender disaggregated support statistics to identify the number of women applying for and on Section 4 and Section 95 support as main applicants to improve information on gender inequality in the support system.
- The UK Border Agency should provide appellants who are lone parents and have no other means of childcare with a childcare allowance so they do not have to bring children to tribunal hearings.
- The tribunal should consider funding the travel costs to appeal hearings of friends or support workers of vulnerable female appellants who are reluctant to travel to appeal hearings on their own.
- Statutory agencies should halt cuts to already hard-pressed frontline agencies providing advice and advocacy to asylum-seeking women to enable women to participate in the appeals process.
- The UKBA should change its policy on Section 4 support and pregnancy to award support to all refused asylum-seeking women who are pregnant from 28 weeks as opposed to the current threshold of 34 weeks.

SUMMARY OF KEY DATA



APPENDIX: TABLE OF SURVEY RESULTS

#	Nationality	Age	Assistance	Source of assistance	Health trouble	Impact of health	Children (number: ages)	Difficulties associated with children	Travel experience	Fear of process
1	Zimbabwe	29	Yes	Refugee Council	No	n/a	No	n/a	Got lost	No (ASAP)
2	Zimbabwe	36	Yes	Housing worker, specialist nurse, GP	Yes (HIV)	Medication – drowsy	No	n/a	Underground confusing	No (ASAP)
3	Sri Lanka	37	Yes	Refugee Action	Yes	Travel	1: 2 Pregnant	Travel; at tribunal	Language, alone, back pain	n/a
4	Uganda	60	Yes	NHS	Yes	Travel	None	n/a	Health problems	No
5	DRC	40	Yes	Solicitor, housing authority, DV support	Yes	Yes	3: 3,16,19	n/a	n/a	n/a
6	Albania	23	Eventually	Not known	Yes	Yes	No	n/a	n/a	Yes
7	Nigeria	32	Yes	Refugee Council	Yes	Yes	3: 1,3,5	Travel, tickets	Yes	Yes
8	China	47	Yes	Hua Ren Agency	Yes	Travel	No	n/a	Language, toilet	No
9	Eritrea	32	Yes	Lifeline Options, church	Yes	No, just worry	No (in Eritrea)	n/a	Language, directions	No (ASAP)
10	Nigeria	23	Yes	Red Cross (referred by friend)	No	n/a	2: 2,4	Travel	Confused, frustrated, directions	Yes
11	Eritrea	22	Yes	Not known	Yes	Yes	None	n/a	OK	Yes
12	Kosova	30	Yes	Not known	No	n/a	3: 3,3,5	Travel	Safety, language	No
13	Iran	40	Yes	Son, refugee centre	Yes	Yes	3: 12,17,18	No	Language.	No
14	Kenya	40	Yes	Refugee support group	Yes	Yes	1; 17	n/a	Fear, directions	n/a
15	Somalia	29	Yes	Solicitor, drop in centre	Yes	n/a	None	n/a	Anxiety	Anxiety
16	Zimbabwe	38	Yes	Asylum Link, GP, Sahir House	HIV/AIDS, hypertension, asthma	Yes	None (in Zim)	n/a	Health trouble, stress	Stress, fear of UKBA
17	Zimbabwe	60	None	n/a	No	n/a	1: 32	n/a	OK (in London)	No
18	Sierra Leone	22	Yes	Refugee Council	Yes	Yes	None Pregnant	n/a	Very bad (see case)	No (ASAP)
19	Afghanistan	22	Yes	Revive	Yes	Yes	None	n/a	Difficult – polio	No
20	China	20	Yes	Northern Refugee Centre	No	n/a	None Pregnant	n/a	OK	Don't know
21	Congo	33	Yes	Congolese association in Liverpool	Yes	Yes	None	n/a	Directions, language	Stress
22	Sri Lanka	68	Yes	Refugee centre	Yes in Leeds	Yes	None	n/a	Directions (able to ask for help)	Distressed

QUOTES ABOUT GENDER DIFFERENCES

Do you think women find it more difficult than men to make appeals like you have?

- 1 "It is not safe for women to walk in the dark. The men don't mind – they are not scared."
- 2 "Women would not want to come in front of a judge – they find it intimidating – don't want to make life more difficult. Too scared – issue of childcare and travelling with children."
- 6 "More difficult because you're a woman, especially a younger woman, I found it very difficult, especially because of what happened to me."
- 7 "It is difficult especially if you have children."
- 9 "Yes, as a woman it might be more difficult to get home."
- 10 "Yes, it was very scary."
- 11 "Yes. If they refuse me I don't know where to go. I sleep in the streets – that is difficult for a women. I am not strong like a man. I like crying too quickly."
- 14 "Yes, caring for children."
- 16 "Women get stressed very (more) quickly, (men) not like us, can't think sometimes (because of stress)."
- 17 "This depends on the individuals... I had to write twice (to submit the appeal because the UKBA lost the first copy). It is difficult to reach the offices and difficult to know what to do."
- 18 "The representative was a man. Everyone was a man; the judge, the home office person, and it was just like quick, quick, quick. The judge couldn't look into your eyes, couldn't wait to get rid of us."
- 19 "The problems I had were because of my disability, not because I am a woman. The problems I had would have been the same if I were a man."
- 21 "I don't think there is any difference between women or men. Both are human beings from God."

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