



**Step Up Migrant Women  
Latin American Women's Rights Service (LAWRS)  
Women for Refugee Women  
Amendment 140 "Victims of domestic abuse: data-sharing for immigration purposes" to the Nationality and Borders Bill  
February 2022**

**Introduction**

We are concerned about the harm that many of the proposals within the Nationality and Borders Bill would cause to women subject to gender-based violence and modern slavery/human trafficking. We submit that the Bill in its current form would cause serious harm and would greatly undermine the Government's commitment to addressing violence against women and girls and eradicating modern slavery and human trafficking. The Bill provides an opportunity to enshrine in legislation safeguarding provisions for victims of domestic abuse with insecure immigration status at the point of reporting a crime or accessing support.

In recent years, domestic abuse has seen a sharp rise.<sup>1</sup> In light of this surge, the Government has reassured victims they are not alone while urging them to seek support from the police and other statutory services. This message was reinforced as the Covid-19 pandemic hit and lockdowns were imposed. Yet law enforcement authorities have continued to share data with the Home Office on migrant victims of domestic abuse<sup>2</sup>, despite repeated warnings from organisations across the violence against women and girls sector.

**Data sharing between the police and the Home Office constitutes one of the most severe barriers to safety for migrant victims of domestic abuse.** It is well-recognised that this policy deters victims from reporting crime and therefore bars them from accessing the Criminal Justice System and getting redress.

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<sup>1</sup> Data from the Office for National Statistics (ONS) shows an increase of 6% of domestic abuse crimes recorded by the police between March 2020 and March 2021. This increase demonstrates the pattern of rising observed in past years.

Office for National Statistics. 2021. *Domestic abuse in England and Wales overview: November 2021*. Accessible at: <https://www.ons.gov.uk/peoplepopulationandcommunity/crimeandjustice/bulletins/domesticabuseinenglandandwalesoverview/november2021>

<sup>2</sup> Home Office. 2021. *Home Office and Police data sharing arrangements on migrant victims and witnesses of crime with insecure immigration status*. Accessible at: [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/104112/4/HO\\_Review\\_Police\\_and\\_HO\\_data\\_sharing\\_migrant\\_victims.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/104112/4/HO_Review_Police_and_HO_data_sharing_migrant_victims.pdf) para. 59.

Research by the Latin American Women’s Rights Service (LAWRS) shows that 1 in 2 migrant victims with insecure immigration status do not report abuse to the police for fear of disbelief, destitution, detention and deportation.<sup>3</sup> Perpetrators often exploit women’s insecure status, telling them that if they approach the police they will not be supported and will instead be placed at risk of detention or removal because of their legal status; research by LAWRS found that 62% of migrant women had specifically been threatened in this manner by their abusers.

The Government recognises this form of coercive and controlling behaviour in its own *Domestic Abuse Draft Statutory Guidance*.<sup>4</sup> At the frontline, organisations that support migrant women are witness to the anxiety that women experience in approaching any law enforcement authority. These fears are not unjustified but based on years of hostile immigration policies that prevent migrant victims from being safe.

It should be noted that data-sharing for immigration enforcement purposes not only affects migrants with insecure status but also migrants with regular status and British nationals who have been misinformed about their rights or fear a punitive response from the police.

#### **Amendment 140<sup>5</sup> - what is it and what would it do?**

Amendment 140, tabled by the Lord Bishop of London, ensures that the personal details of a victim of domestic abuse are processed with the sole aim of allowing the victim to seek support, and prevents those details from being shared for immigration control purposes. It requires the Secretary of State to make arrangements and issue guidance to that effect. It would also ensure that victims’ information is excluded from the application of the immigration exemption in the Data Protection Act 2018 in such cases.

This amendment is vital to ensure migrant and refugee women can seek safety and assistance from statutory services, including the police, without fear of being detained or removed. A clear statutory duty of this kind will ensure a much-needed consistent practice, sending out a clear message to statutory services that support for survivors should be at the centre of their response when a victim comes forward.

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<sup>3</sup> McIlwaine, Cathy, Lucila Granada and Illary Valenzuela-Oblitas. 2019. *The Right to be Believed: Migrant women facing Violence against Women and Girls (VAWG) in the ‘hostile environment’ in London*. London: King’s College London and Latin American Women’s Rights Service. Accessible at: <https://stepupmigrantwomenuk.files.wordpress.com/2019/05/the-right-to-be-believed-key-findings-final-1.pdf>

<sup>4</sup> Home Office. 2021. *Domestic Abuse Draft Statutory Guidance Framework*. Accessible at: [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/1007814/draft-da-statutory-guidance-2021-final.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1007814/draft-da-statutory-guidance-2021-final.pdf) para 85.

<sup>5</sup> Amendment text. Accessible at: <https://bills.parliament.uk/bills/3023/stages/16003/amendments/90813>

Migrant victims of domestic abuse are among some of the most marginalised and vulnerable, and are being failed by current Government policies. **This amendment is a real opportunity to remedy the effects of one such policy, by ensuring that all victims, irrespective of their immigration status, are able to come forward and seek vital support.** Trust in the police and other services will also allow victims to report crimes and cooperate with criminal investigations to prosecute perpetrators.

**What would the amendment not do?**

The establishment of safe reporting mechanisms would not allow women to evade authorities or go underground. On the contrary, and based on our experience, women who come forward do so to regularise their status which will be facilitated by this amendment removing fear of detention or deportation when accessing statutory services/support. In our opinion, this amendment will not prevent women from accessing existing support provisions such as the Destitute Domestic Violence Concession (DDVC) and other forms of regularisation as these provisions do not require statutory services to share survivors information with immigration enforcement. The amendment intends to give these women the opportunity to access legal advice and specialised support from organisations that, as recommended by the super-complaint investigation, "[...] can act as an intermediary and advocate on the victim's behalf in communications with Immigration Enforcement".

Moreover, this amendment would not hinder the ability of the Government to safeguard a victim because, as evidenced by the super-complaint investigation, data sharing with Immigration Enforcement does not protect victims and instead constitutes a significant barrier to protection.

<p><b>Case study provided by LAWRS</b> <b>Sonia<sup>6</sup></b></p>
<p>Sonia came with the expectation of settling in the UK with her family. Her partner convinced her that she and their child could come to the UK on a visitor visa, and once in the country, he would make an immigration application to regularise their status. However, once in the country, he successfully applied to regularise his status but refused to make an immigration application for them. After six months, Sonia and her child became overstayers.</p> <p>Over the following months, her perpetrator exerted multiple forms of abuse against Sonia and her child, including physical, emotional, financial and economic abuse. She was entirely financially dependent on him. He would refuse to provide her with money for food, resulting in Sonia and her child going hungry for days. Her mental health considerably deteriorated from enduring prolonged abuse.</p>

<sup>6</sup> We have used a pseudonym to protect her identity.

He used her irregular status to control further and coerce her. He threatened her with separation from her child and having her deported. Her perpetrator often told her that if she reported him to the police, they would not believe her and remove her because of her legal status and for not speaking English. He would tell her that her only option was to spend the rest of her life trapped in abuse.

Desperate for support, Sonia self-referred to LAWRS. With the help of her advocate, Sonia decided to report her perpetrator to the police. A couple of days after the report, the police notified Sonia's caseworker that they had shared Sonia's details with Immigration Enforcement. Her caseworker feared that enforcement action could be taken against Sonia and her child, before she was able to access independent immigration advice to regularise their status.

The news terrified Sonia, who was re-victimised as the perpetrator's threats became real. Her caseworker was concerned that despite the perpetrator abusing Sonia and the child, the police prioritised contact with Immigration Enforcement rather than acting to prevent further abuse.

LAWRS' caseworker referred Sonia's case to social services raising concerns about the child's safety due to domestic abuse. Social services said they did not have a duty to support them because of Sonia's insecure legal status. They advised her to seek a voluntary return to her country of origin immediately, and gave her an ultimatum of three days after which they would report her to the Home Office.

They also notified her that if she were to leave the perpetrator and become homeless, then social services would remove and place the child in foster care. This re-traumatised Sonia and significantly increased her anxiety. The focus of the intervention from the statutory service was on Sonia's legal status rather than acting to protect them as victims of domestic abuse.

Unfortunately, Sonia is just one of many migrant women who have experienced the same challenges. Catapulting migrant victims into the immigration enforcement system without legal advice or support, at the point when they are at their most vulnerable yet have bravely taken the first step to escaping abuse, is not only unnecessary and counterproductive but also cruel.

## **Background Information**

### ***Super-complaint on policing and immigration status***

Based on the harmful effects of the continued cooperation between the police and Immigration Enforcement, in 2018, Southall Black Sisters and Liberty lodged the first

ever super-complaint.<sup>7</sup> In December 2020, findings from the independent super-complaint conducted by three independent police authorities, including Her Majesty's Inspectorate of Constabulary and Fire & Rescue Services (HMICFRS), the Independent Office for Police Conduct (IOPC) and the College of Policing, shone a spotlight on the damaging effects of the practice on migrant victims of abuse.<sup>8</sup> The investigation confirmed the deterrent effect of data sharing on migrant victims. This, in turn, places victims at further risk of abuse, keeping them trapped in violent situations, while enabling perpetrators to abuse victims with impunity.<sup>9</sup>

The findings also warned of the significant harm caused by data sharing to the public interest, as serious crimes are not reported, investigated and prosecuted. More importantly, the independent research indicated there is no evidence that sharing domestic abuse victims' data with Immigration Enforcement constitutes a form of safeguarding. Among the eight recommendations made, the police watchdogs called for immediate action to stop the practice of data sharing, and the Home Office undertook a legal and policy review of the issues raised in the super-complaint. The aim of this review was to establish safe reporting mechanisms for all migrant victims and witnesses.

## **The Domestic Abuse Act**

In March 2021, the Domestic Abuse Bill received Royal Assent. Despite the multiple positive measures the Act introduced, the Government failed to provide equal protection for migrant and refugee women. During the Bill's passage through Parliament, LAWRS and other members of the Step Up Migrant Women campaign advocated for the establishment of safe reporting mechanisms. In the House of Lords, Peers voted on an amendment, tabled by Baroness Meacher, which would have prevented public authorities from sharing data with the Home Office for immigration purposes.

The Government rejected this amendment, arguing they needed to wait for the outcome of the Home Office review recommended by the super-complaint. Instead they proposed two 'compromise' clauses which made provision for the above-mentioned review and a statutory code of practice relating to data processing for immigration purposes. Despite the disappointment of not having secured a statutory obligation that would prevent public authorities (and other support services) from sharing data with the

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<sup>7</sup> Southall Black Sisters & Liberty. 2018. *Super-complaint prepared by Liberty and Southall Black Sisters*.

Accessible at:

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/767396/Super-complaint\\_181218.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/767396/Super-complaint_181218.pdf)

<sup>8</sup> HM Inspectorate of Constabulary and Fire & Rescue Services, College of Policing, and Independent Office for Police Conduct. 2020. *Safe to Share? Report Safe to share? Report on Liberty and Southall Black Sisters' Super-complaint on policing and immigration status*. Accessible at: [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/945314/safe-to-share-liberty-southall-black-sisters-super-complaint-policing-immigration-status.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/945314/safe-to-share-liberty-southall-black-sisters-super-complaint-policing-immigration-status.pdf)

<sup>9</sup> LAWRS. 2021. *Super-complaint investigation findings and recommendations*. Accessible at:

<https://drive.google.com/file/d/15vpdmQD3qDJJnsgQjmbDaJ0PC2CYJHAv/view>

Home Office, we welcomed these clauses. We welcomed the inclusion of the Home Office Review on a statutory footing as it would be scrutinised by Parliament and guaranteed that it would be undertaken in consultation with interested parties, including specialist organisations supporting migrant victims.

## **The Home Office Review**

Together with organisations from the modern slavery and ending violence against women and girls sectors, LAWRS engaged in good faith with the development of the Home Office Review. During five workshops, we presented evidence on the benefits of instituting safe-reporting mechanisms in the form of a firewall, and raised concerns around the conflict of interest inherent in the Home Office's so-called safeguarding role. We also shared case studies of migrant victims of domestic abuse, in order to illustrate the damaging effects of current data-sharing schemes.

Last December 2021, the Government published and laid before Parliament the *Home Office and Police data sharing arrangements on migrant victims and witnesses of crime with insecure immigration status review*.<sup>10</sup> Its content contradicts the findings of the above-mentioned independent investigation, by arguing that data sharing with Immigration Enforcement is essential to protect victims. The Home Office rejected the possibility of establishing a firewall that would have allowed victims with insecure immigration status to approach the police to report crimes and to therefore be safe. Instead, they proposed an *Immigration Enforcement (IE) Migrant Victims Protocol*. Yet it is not a viable alternative to safe reporting and will only serve to further institutionalise data sharing between the police and Immigration Enforcement.

**We wholeheartedly disagree with the Government's response and argue that there is a clear conflict of interest in Immigration Enforcement being responsible for upholding immigration rules whilst also safeguarding vulnerable victims.** We therefore reject this protocol because we know this alternative approach will not enhance victims' confidence to report crime. On the contrary, the active involvement of Immigration Enforcement will have a harmful effect on vulnerable victims with insecure immigration status, ultimately leaving them unprotected.<sup>11</sup>

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<sup>10</sup> Home Office. 2021. *Home Office and Police data sharing arrangements on migrant victims and witnesses of crime with insecure immigration status*. Accessible at: [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/1041124/HO\\_Review\\_Police\\_and\\_HO\\_data\\_sharing\\_migrant\\_victims.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1041124/HO_Review_Police_and_HO_data_sharing_migrant_victims.pdf)

<sup>11</sup> LAWRS, *et. al.* 2022. Joint response to the "Home Office and Police data-sharing arrangements on migrant victims and witnesses of crime with insecure immigration status". Accessible at: [https://lawrs.org.uk/wp-content/uploads/2022/02/Joint-Response-to-Home-Office-Review\\_-data-sharing.pdf](https://lawrs.org.uk/wp-content/uploads/2022/02/Joint-Response-to-Home-Office-Review_-data-sharing.pdf)

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**Amendment 140**

After Clause 47  
Insert the following new Clause—

“Victims of domestic abuse: data-sharing for immigration purposes

- (1) The Secretary of State must make arrangements to ensure that personal data of a victim of domestic abuse in the United Kingdom that is processed for the purpose of that person requesting or receiving support or assistance related to domestic abuse is not used for any immigration control purpose.
- (2) The Secretary of State must make arrangements to ensure that the personal data of a witness to domestic abuse in the United Kingdom that is processed for the purpose of that person giving information or evidence to assist the investigation or prosecution of that abuse, or to assist the victim of that abuse in any legal proceedings, is not used for any immigration control purpose.
- (3) Paragraph 4 of Schedule 2 to the Data Protection Act 2018 does not apply to personal data to which subsection (1) or (2) applies.
- (4) For the purposes of this section, the Secretary of State must issue guidance to—
  - (a) persons from whom support or assistance may be requested or received by a victim of domestic abuse in the United Kingdom;
  - (b) persons exercising any function of the Secretary of State in relation to immigration, asylum or nationality; and
  - (c) persons exercising any function conferred by or by virtue of the Immigration Acts on an immigration officer.
- (5) For the purposes of this section—

“immigration control purpose” means any purpose of the functions to which subsection (4)(b) or (c) refers;

“support or assistance” includes the provision of accommodation, banking services, education, employment, financial or social assistance, healthcare and policing services and any function of a court or prosecuting authority;

“victim” includes any dependent of a person, at whom the domestic abuse is directed, where that dependent is affected by that abuse.”

#### Member’s explanatory statement

This new Clause would require the Secretary of State to make arrangements to ensure that the personal data of migrant survivors of domestic abuse that is given or used for the purpose of their seeking or receiving support and assistance is not used for immigration control purposes.