

Call for evidence: Pre-legislative scrutiny of the draft Victims Bill



Justice Committee

Submission by the Latin American Women's Rights Service (LAWRS) and the Step Up Migrant Women Campaign (SUMW)

June 2022

1. About Latin American Women's Rights Service (LAWRS)

- 1.1. LAWRS is a human rights, feminist organisation led by and for Latin American migrant women living in the UK. We support 5,000 women every year who are exposed to violations of their fundamental human rights, facing violence against women and girls, exploitation in low-paid sectors, trafficking, or enduring severe poverty and deprivation.
- 1.2. Our direct support includes casework for women experiencing gender-based abuse, counselling and emotional support, advice and casework on employment rights and exploitation, family law and immigration, among others.
- 1.3. We also actively advocate for women's rights, migrant's rights and the rights of ethnic minorities, working with sister organisations in the women, migrant and anti-slavery and anti-trafficking sectors.

2. About the Step Up Migrant Women Campaign (SUMW)

- 2.1. Step Up Migrant Women (SUMW) is a campaign *led by and for* migrant, Black and minoritised women and specialist organisations. The SUMW coalition is formed of more than 50 organisations that work and advocate to ensure migrant women victims of crime can report abuse to the police and access support safely without facing negative immigration consequences.

3. Introduction

- 3.1. LAWRS and the Step Up Migrant Women campaign welcome the opportunity to submit evidence to the Justice Committee undertaking the pre-legislative scrutiny of the Draft Victims Bill.
- 3.2. We welcome the introduction of the Draft Victims Bill and the Government's commitment to improving the victims' experience of accessing the Criminal Justice System (CJS) while putting the victims' interest at the heart of this system.
- 3.3. Unfortunately, we do not believe that the Bill, as drafted, meets the Government's aim of delivering a cultural shift in victims' experiences, as in its current form it would not protect all victims.
- 3.4. We are convinced that the Victims Bill provides an opportunity to enshrine in legislation safeguarding provisions for all victims of crime, including those with insecure immigration status from the point of reporting a crime or accessing support.

4. Question 1: The Bill's definition of 'victim'.

- 4.1. We are pleased to see that witnesses are considered in this Bill as recipients of equal protections to those directly affected by crime and that no person needs to have been charged with or convicted of an offence in order for the definition to apply.
- 4.2. However, for the Bill to be truly transformative, it is essential that it does not institutionalise a two-tier system of victims, and instead it ensures that migrant victims and witnesses of crime have equal access to the Criminal Justice System and support services (including the police), for which they currently face additional barriers.

5. Question 3: The key changes the Government should consider making to the Victims' Code, including consideration of those already proposed by the Government in its response to the consultation.

- 5.1. We welcome the Government's intention to place the Victims' Code on Statutory footing, and would like to see this step accompanied by further actions to improve compliance.
- 5.2. Compliance with the Code has been wanting. LAWRS' VAWG caseworkers have found that when supporting a victim, there is a need to constantly advocate throughout the process so that the victim's rights are met. By way of example, we have found several issues in compliance with right 1, "To

understand and be understood”, with statutory services failing to provide qualified interpreters for victims of crime despite having asked for one when reporting a crime online. We would welcome more explicit guidance addressing these issues, in order to avoid discrimination due to discretionality in the decision-making.

- 5.3. It is imperative that the Code is widely known by all those who must enforce it, with sufficient training to ensure it is correctly understood and applied in line with the victim’s needs. Furthermore, there should be a commitment from the Government to making the Code and its rights accessible to different communities, particularly the most marginalised. The best way to do so is working in partnership with community organisations that are embedded in the community.
- 5.4. We strongly oppose the restriction of the application of the Code’s provisions to certain groups of victims. We believe this could further impact migrant victims and witnesses of crime who are already barred from accessing the Criminal Justice System and its remedies.

6. Question 12: Whether there should be any further measures included in the Bill.

6.1. **Suggested Amendment to the Bill: A firewall between statutory services and Immigration Enforcement**

- 6.2. In order to ensure equal access to justice and support for all victims, it is essential that this Bill guarantees that victims with insecure immigration status can report crime and access support safely. There is consensus among organisations supporting migrant victims of crime on the need for a *complete firewall* between statutory services (such as the police) and Immigration Enforcement as the most appropriate mechanism for safe reporting .
- 6.3. A complete firewall would restrict statutory services’ ability to share a victim’s personal data with Immigration Enforcement when reporting a crime or accessing services. This would ensure that personal data of a victim or witness of crime in the United Kingdom that is processed for the purpose of that person requesting or receiving support or assistance related to crime is not used for any immigration control purpose.
- 6.4. This form of safe reporting mechanism is likely to improve reporting rates amongst victims and witnesses with insecure immigration status, as well as those with secure status who would currently choose not to report for fear of endangering others. Evidence shows that a firewall would make victims and witnesses feel confident in approaching the police to report crimes and more

likely to engage in criminal proceedings which will in turn allow the police to hold perpetrators to account and prevent crime.¹

CASE STUDY 1

Carla* arrived in the UK in 2017 with the promise of a job as a domestic worker with an extended family member. She was told she was allowed to work with her visitor's visa, and she would be living in her employer's house. The family had 3 children - 10, 8 and 6 years old - and they lived in a big house in London. She worked around 15 hours per day (6:30 am up to 10 pm), without breaks. She earned £1600 per month, which came to £3.55 an hour. She did not take any annual leave, and she was not paid for it either.

Carla came to LAWRS in 2020 to enquire about her rights as a worker, and stated that she was suffering from joint and back pains and wanted to see a doctor. By this point she had become undocumented and was aware of her immigration status. When LAWRS advised her to register with the local GP, she explained that she could not register as she could not provide the address where she is living because her employer would not allow it. She was also scared of registering because she did not want to risk the police going to the house as she feared she could be deported. LAWRS advised her that she was a victim of exploitation and that she could receive further support through the National Referral Mechanism. However, Carla was scared of reporting her employer and losing her job, as she needed to send money to her family back home. She felt she had no alternative but to continue to work in those conditions.

6.5. **Migrant Victims of Crime**

6.6. In line with our experience from the frontline, the Government recognises immigration status as a risk factor to becoming a victim of serious crime, including gender-based abuse and exploitation.² ³ Having control over someone's status allows perpetrators of crime to control, harm and trap victims in abusive relationships⁴ and/or exploitative working conditions.

6.7. Migrant victims of crime, particularly those with insecure immigration status, face many barriers that render them unable to report such crimes, access the Criminal Justice System (CJS) and receive support from the police and other

¹ Examples of how a firewall can work in practice have been tried internationally. For more information please see: Preventing and Addressing Abuse and Exploitation: A Guide for Police and Labour Inspectors Working with Migrants, 2022. Available at:

[://lawrs.org.uk/wp-content/uploads/2022/02/Preventing_and_addressing_abuse_and_exploitation_FINAL.pdf](https://lawrs.org.uk/wp-content/uploads/2022/02/Preventing_and_addressing_abuse_and_exploitation_FINAL.pdf)

² Home Office: Modern Slavery: Statutory Guidance for England and Wales (under s49 of the Modern Slavery Act 2015) and Non-Statutory Guidance for Scotland and Northern Ireland. Accessible at: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1075198/Modern_Slavery_Statutory_Guidance_EW_Non-Statutory_Guidance_SNI_v2.9.1.pdf

³ 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 para 85.

⁴ Safety Before Status. Improving pathways to support for migrant victims of domestic abuse, 2021. Available at: <https://domesticabusecommissioner.uk/wp-content/uploads/2021/10/Safety-Before-Status-Report-2021.pdf>

statutory agencies. Moreover, research shows that in cases involving migrant women, the police are even less likely to conduct criminal investigations and bring criminal charges.⁵ In recent years, we have seen increasing levels of mistrust in the CSJ amongst migrant communities. Owing to the increased internal immigration controls within the provision of services that characterises the hostile immigration policy, this fear has expanded.

- 6.8. Research by the Step Up Migrant Women Campaign shows that one in two migrant victims with insecure immigration status do not report domestic abuse to the police for fear of disbelief, destitution, detention and deportation.⁶ 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. Evidence shows that 62% of migrant women had specifically been threatened in this manner by their abusers.⁷
- 6.9. Similarly, victims of exploitation supported by LAWRS do not generally consent to a referral to the National Referral Mechanism unless they have secure status. In spite of a desperate need for support from those who are undocumented, they choose to remain underground for fear of Immigration Enforcement.
- 6.10. Furthermore, it is our experience that often migrant victims of crime become undocumented as a result of the abuse and exploitation experienced. This can happen, for instance, when a perpetrator or exploiter gives false information to the victim regarding their immigration status or their right to work and settlement, or promises to apply for the appropriate visa when it is time to do so, only to allow deadlines to pass in order to increase their control over the victim.
- 6.11. **Lack of safe reporting mechanisms and exclusion from the CJS**
- 6.12. Data sharing between the police and Immigration Enforcement constitutes one of the most severe barriers to safety for migrant victims. In December 2020, the findings of the first super-complaint investigation led by three independent police watchdogs concluded that these data-sharing arrangements are significantly harming victims of crime and the public interest, as crimes are not reported and therefore remain unpunished.⁸

⁵ Policy Evidence Summary 1: Migrant Women. 2018. Available at: https://research-information.bris.ac.uk/ws/portalfiles/portal/188884552/Policy_evidence_summary_1_Migrant_women.pdf

⁶ The Right to be Believed Migrant women facing Violence Against Women and Girls (VAWG) in the 'hostile immigration environment' in London, 2019. Available at: <https://stepupmigrantwomenuk.files.wordpress.com/2019/05/the-right-to-be-believed-key-findings-final-1.pdf>

⁷ Ibid.

⁸ Safe to share? Report on Liberty and Southall Black Sisters' super-complaint on policing and immigration Status, 2020. Available 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

- 6.13. By preventing migrant victims from reporting crime, they are automatically excluded from even accessing the Criminal Justice System. This goes against the Government's aim to protect victims and improve their experience and the support they receive, as stated by the Justice Secretary.⁹
- 6.14. On a practical level, impeding migrant victims reporting crime to the police allows perpetrators to continue to abuse and exploit other people without being brought to justice. This perpetuates a culture of impunity which sends the message that abusing migrant victims will carry no consequences.

CASE STUDY 2

Lucia* is from Latin America and came to the UK on a visitor visa. In 2019, she met her partner online, and after some months, he proposed and convinced her to stay in the UK by telling her he would marry her before her visa expired. However, as time passed, he became aggressive and began isolating her from friends and family. When the pandemic hit, he increased his control over her. At the end of last year, she ended the relationship. After that, he would send her messages and emails insulting and threatening her.

In 2022 she sought support from LAWRS. She was experiencing a high risk case of abuse and stalking, which led to a deterioration of her mental health and the development of suicidal thoughts. Despite the risk, Lucia was fearful of contacting the police due to her lack of legal status, but as the threats and stalking grew worse, her caseworker supported her to report him to the police. They filed an online report asking for an interpreter.

When the police came to her home, no interpreter was provided. Lucia felt that her case and evidence were undermined. She felt embarrassed and blamed as police officers asked her if she did not know that meeting people online was not safe. Later, when the police asked for an ID and looked through her passport and expired visa, they called Immigration Enforcement in front of her and told her that she should be ready to leave at any moment. The officers did not want to leave her place until she gave them a date for her return to her home country. Before leaving, one of the officers told her that he didn't want to call the Home Office but had no other alternative.

Regarding the abuse case, police told Lucia that there she was not a victim of crime as her perpetrator was not threatening her. The only recommendation was that she change her contact details. Lucia was not provided with the crime

⁹ Consultation outcome. Delivering justice for victims: Consultation response. 2022. Available at: <https://www.gov.uk/government/consultations/delivering-justice-for-victims-a-consultation-on-improving-victims-experiences-of-the-justice-system/outcome/delivering-justice-for-victims-consultation-response>

reference number or any commitment that her abuser would be investigated. This was the first time Lucia sought support from the police after three years of being in an abusive relationship. She felt let down by the police and fearful of removal from the country as a consequence of having reported the crime. Meanwhile, her perpetrator continued to harass her, sending her emails with threats to come to her house.

The police report to Immigration Enforcement filled Lucia with terror. She contacted her caseworker extremely distressed, saying she did not want to have any contact with the police. As abuse escalated again, her caseworker tried to convince her to make another report, which Lucia opposed as she was more afraid of deportation. Eight days after the police report, Lucia got an immigration enforcement letter. The letter exacerbated Lucia's fear and made her decide to disengage from LAWRS' support altogether. She told her caseworker that she did not believe there would be a way to obtain any justice. Despite being a victim, she felt she was treated as a criminal facing negative consequences due to her immigration status.

6.15. **Immigration Enforcement Migrant Victims Protocol**¹⁰

6.16. In their response to the consultation on the Victims Bill, the Government describes the upcoming *Immigration Enforcement Migrant Victims Protocol* (henceforth '*the Protocol*') as the vehicle to increase migrant victims' confidence in reporting a crime and accessing support. It is important to stress, however, that this Protocol goes against the expertise, suggestions and evidence presented by the specialist organisations that the Home Office consulted when reviewing the legal and policy frameworks of data-sharing arrangements. As an organisation supporting migrant victims on a daily basis, we argue that the Protocol is not a viable alternative to safe reporting and therefore strongly oppose its development and implementation.

6.17. Our experience of supporting extremely vulnerable victims of crime who have insecure immigration status confirms that any risk or fear of information being shared with the Home Office will be enough to avoid approaching the police to report their perpetrators. The Protocol would not increase migrant victims' trust in the police because data-sharing with the Home Office (through Immigration Enforcement) will continue and will be expanded. Rather than encouraging victims and witnesses of crime to come forward, the protocol will increase mistrust in the police and other statutory support services. As a result, victims and witnesses of crime will be deterred from

¹⁰ The Immigration Enforcement Migrant Victims Protocol is the Government's response to the data-sharing super-complaint presented by Southall Black Sisters and Liberty. The independent investigation of this complaint found that data-sharing is harming victims of crime and the public interest. The investigation concluded: "that sharing information on victims of domestic abuse with Immigration Enforcement does not constitute safeguarding".

approaching any law enforcement agency to report a crime or seek support, and more likely to remain in abusive or exploitative situations.

- 6.18. The justification for the development of the Protocol as a response to the need for safe reporting is that Immigration Enforcement holds a safeguarding function and that information sharing between the police and Immigration Enforcement is necessary to safeguard and protect vulnerable victims of crime.¹¹ We disagree with the Government's view that Immigration Enforcement can and is playing a safeguarding role with migrants with insecure immigration status as its primary role is to enforce immigration laws, through the use of detention and deportation. Seeking to 'safeguard' migrant victims and witnesses of crime while at the same time pursuing enforcement action upon them is a clear conflict of interest.
- 6.19. Furthermore, one of the main elements presented by Immigration Enforcement as a safeguarding tool was their capacity to refer victims to specialist organisations for support. Considering that the police and any other statutory agency would be able to do this referral directly, and that it would be unlawful for Immigration Enforcement to provide immigration advice, their involvement at this point would be an unnecessary step if safeguarding is the true and priority aim.
- 6.20. The Protocol is only set to provide temporary relief from immigration enforcement action to victims whose criminal proceedings are ongoing. This is another area of concern. This temporary relief gives no guarantees to victims and witnesses of crime prior to reporting, as they do not know if a criminal investigation or related proceeding will take place. On the frontline, we often see cases involving migrant women being dismissed and/or discontinued without even informing the victim and their support worker. The Protocol assumes that migrant victims and witnesses will want to come forward to report a crime simply because no enforcement action will take place. But as mentioned above, cases involving migrant women result in fewer investigations and prosecutions.
- 6.21. To conclude, we reject the Government's assertion that the proposed Protocol will achieve the same goals as a firewall. We are concerned that any involvement of Immigration Enforcement in the reporting process will continue to prevent vulnerable migrant victims from approaching the police and other services and push them underground, where they face increased risk of further harm and exploitation. In fact, far from being the answer to a need for safe reporting mechanisms, the Protocol will institutionalise the role of Immigration Enforcement in the reporting of a crime, which will only serve to empower perpetrators of crime.

¹¹ Home Office and Police data sharing arrangements on migrant victims and witnesses of crime with insecure immigration status, 2021. Available 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

6.22. It is our hope that the Victims Bill will deliver a true cultural shift in victim's experiences by establishing a firewall between statutory services and Immigration Enforcement, and protecting *all* victims and witnesses of crime.

* Names have been changed to protect women's identities.

For further information please contact:

Dolores Modern, Policy and Communications Coordinator, dolores@lawrs.org.uk

Elizabeth Jiménez-Yáñez, Policy and Communications Coordinator, elizabeth@lawrs.org.uk