



Victims and Prisoners Bill

Second Reading on 15 May 2023

A Briefing on Amendments to Protect Migrant Victims of Violence Against Women (VAWG)

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Introduction and Amendments

For several years, the government promised to introduce a law that would enshrine the rights and entitlements of victims of crime. This piece of legislation has been long awaited by those who have been victimised and organisations representing them. In March 2023, the Victims and Prisoners Bill was introduced in Parliament. According to its explanatory notes, the Bill seeks to improve victims' experiences and access to support and justice.¹ Nevertheless, victims with insecure immigration status continue to be excluded from the reach of this Bill.

Evidence suggests that migrant victims are more vulnerable to experiencing serious crime and, at the same time, less likely to receive redress. Migrant victims encounter multiple barriers to protection and safety. The immigration system and the hostile environment policy create structural obstacles to justice.

This briefing covers two main areas in immigration policy which need urgent legal reform so that migrant victims are protected from domestic abuse and gender based violence under the Bill (specific wording for amendments will be provided in subsequent briefings).

The amendments aim to achieve the following:

1. **Introduce a firewall to stop data sharing** between statutory agencies and Immigration Enforcement to enable victims to come forward to report abuse and seek help. This amendment will be introduced via the Domestic Abuse Commissioner (DAC).
2. **Extend the Domestic Violence Indefinite Leave to Remain (DVILR) and Destitution Domestic Violence Concession (DDVC) model for those on partner/spousal visas to all migrant victims of abuse regardless of their immigration status**, to prevent

¹ <https://publications.parliament.uk/pa/bills/cbill/58-03/0286/en/220286en.pdf>

them from being trapped in violent relationships due to no recourse to public funds (NRPF).

3. **Extend the current three-month provision to six months under the DDVC** to give victims the 'breathing space' to resolve problems by seeking advice and recover from abuse, and to encourage more refuge providers to accept referrals and not turn victims away.

Contacts for further information:

On the Firewall amendment: Elizabeth Jiménez-Yáñez, Latin American Women's Rights Service, elizabeth@lawrs.org.uk

On the NRPF amendments: Hannana Siddiqui, Southall Black Sisters, hannana@southallblacksisters.co.uk

Background

1. Data Sharing and the Firewall

A wealth of evidence has shown that migrant victims of crime are prevented from reporting a crime to the police and other statutory agencies due to the fear of facing immigration control action.² For victims with insecure immigration status, data sharing between the police and other statutory services and the Home Office constitutes one of the most severe barriers to accessing the Criminal Justice System.

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 the Latin American Women's Rights Centre (LAWRS) and the Step Up Migrant Women campaign found that 62% of migrant women had specifically been threatened in this manner by their abusers. The same research 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. The case of David Carrick is a high profile example of how perpetrators weaponise victim's immigration status to trap them in an abusive relationship.³

Migrant victims' fear of immigration control is not unjustified. In the last few years, there has been an increase in cooperation between the police and the Home Office for immigration control. Recently, Freedom of Information requests showed that between May 2020 and September 2022, the police shared the details of over 2,000 vulnerable victims with Immigration

² C. McIlwaine, et al., 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. Online: <https://stepupmigrantwomenuk.files.wordpress.com/2019/05/the-right-to-be-believed-key-findings-final-1.pdf>

³ P. Hill, E. Scully, 2023, Victim of police rapist David Carrick says he set SNAKES on her in twisted punishment. Online: <https://www.mirror.co.uk/news/uk-news/victim-police-rapist-david-carrick-29134439>

Enforcement after victims reported the crime. Some of these victims have been served with enforcement papers and are at risk of deportation.⁴

Police super-complaint on data sharing

In December 2020, the findings of the first super-complaint investigation, led by three independent police watchdogs, were published. The report concluded that data-sharing arrangements significantly harm not only victims of crime but also the public interest, as crimes are not reported and therefore remain unpunished. The report also confirmed that in domestic abuse cases, data-sharing with Immigration Enforcement does not constitute safeguarding. Furthermore, it recommended a review of the policy and legal framework of data sharing led by the Home Office. The Inspectorate stated that the review should conclude with the introduction of safe reporting mechanisms for all migrant victims and witnesses of crime.⁵

Despite the super-complaint findings and the recommendations, the Government rejected a firewall. Instead, it proposed introducing an Immigration Enforcement Migrant Victims Protocol, arguing that Immigration Enforcement can perform a function of pursuing enforcement action against migrant victims while simultaneously seeking to safeguard them. We wholeheartedly disagree with the government's response and argue that there remains a conflict of interest at the heart of Immigration Enforcement, given that its overriding role is to enforce immigration rules and not provide a safeguarding function. Several charities working at the frontline with migrant victims of domestic abuse have raised concerns about the harms the Protocol will inflict on vulnerable migrant women.⁶

The Firewall

Since 2017, the Step Up Migrant Women campaign, led by LAWRS, has called for establishing safe reporting mechanisms in the form of a firewall to ensure the reporting of a crime and access to support is clearly separated from any form of immigration control. Cross-party Parliamentarians and Independent Commissioners such as the Domestic Abuse Commissioner, the former Victims Commissioner and the London Victims Commissioner have supported this recommendation.

Recently, the Justice Committee scrutinising the draft of the Victim's Bill recommended the introduction of a complete firewall and called for the immediate end of data-sharing between the police and the Home Office for immigration enforcement purposes.⁷

⁴ L. Butterfly, 2023, UK police referred sexually exploited children and victims of domestic abuse to immigration authorities. Online: <https://www.thedetail.tv/articles/uk-police-forces-referred-thousands-of-migrant-victims-of-crime-to-immigration-authorities>

⁵ Safe to share? Report on Liberty and Southall Black Sisters' super-complaint on policing and immigration status. Online: 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 Joint response to the "Home Office and Police data-sharing arrangements on migrant victims and witnesses of crime with insecure immigration status. Online: https://lawrs.org.uk/wp-content/uploads/2022/02/Joint-Response-to-Home-Office-Review_-data-sharing.pdf

⁷ House of Commons, Justice Committee, 2022. Pre-legislative scrutiny of the draft Victims Bill. Second

We are supporting the Domestic Abuse Commissioner in their proposal for an amendment to introduce a full firewall as part of the Victims and Prisoners Bill.

Good international practice

Recognising the importance of building trust with all migrants in order to solve crime, prevent and address abuse and exploitation, police and labour inspectors abroad have introduced and strengthened safe reporting mechanisms that have led to positive outcomes for their agencies, migrants and the wider community. In the Netherlands, a firewall was introduced nationally in 2016. The policy called 'free in, free out' allows migrants with insecure status report crime without having the police act upon their immigration status.⁸

Conclusion

Prioritising immigration enforcement over the human rights of migrant women prevents them from reporting domestic abuse due to fear of being treated as criminals – an increasing possibility due to the Illegal Migration Bill. The lack of safe reporting mechanisms creates a barrier for migrant women seeking support to flee violence, putting their lives at risk and allowing perpetrators to exert abuse with impunity. A firewall will enable victims to report abuse without the fear of being arrested, imprisoned, detained and deported.

2. The SMV Pilot and lifting No Recourse to Public Funds

Last year marked 30 years of campaigning led by Southall Black Sisters (SBS) to reform immigration and no recourse to public funds (NRPF) law for victims of domestic abuse. The year also marked the anniversaries of two major reforms achieved by the campaign. These are the:

- **Domestic Violence Indefinite Leave to Remain (DVILR) 2002 Rule**, which was initially introduced as a concession in 1999. It gave victims of domestic abuse on partner/spousal visas the right to indefinite leave to remain in the UK.
- **Destitution Domestic Violence Concession (DDVC) in 2012**, which enables victims on partner/spousal visas with NRPF the right to receive benefits and social housing for three months while they regularised their stay in the UK under the DVILR.

Over the years, these reforms have assisted thousands of victims to escape domestic abuse. It is widely praised by service providers. International research also suggests that the DVILR and DDVC model is the best in the world.⁹ The model encourages victims to come forward and seek help as it gives both status and support, and there is no evidence of abuse of the immigration system.

Report of Session 2022–23. Online:

<https://committees.parliament.uk/publications/28831/documents/174248/default/>

⁸ L. Ishibashi, et al, 2021, Preventing and addressing abuse and exploitation: a guide for police and labour inspectors working with migrants. Online:

https://lawrs.org.uk/wp-content/uploads/2022/02/Preventing_and_addressing_abuse_and_exploitation_FI_NAL.pdf

⁹ Some of this information on international models has been provided by the SEREDA Project. See:

<https://www.birmingham.ac.uk/research/superdiversity-institute/sereda/index.aspx>

The Unprotected

However, women on non-spousal/partner visas with NRPF and undocumented women are not eligible for the DVILR and the DDVC. They continue to face a stark choice between domestic abuse or deportation and destitution. Many are unable to even enter a women's refuge as they cannot pay their rent or living costs as they are not eligible for housing or other social security benefits. Women and their children are vulnerable to homelessness and exploitation; and can be locked in new dangerous situations or driven back to abusive relationships.

Although those with children can apply to social care for support under the Children's Act, the response of social services is often inconsistent or indifferent. In some cases, women are deterred from seeking their help as social services threaten to take children into care or return them to an abusive father or family member. Few single women are entitled to help from adult safeguarding as they may not have diagnosed clinical needs or other vulnerabilities.

Support for Migrant Victims (SMV) Pilot Scheme

In response to SBS' amendments to extend the DVILR and DDVC to all migrant victims introduced to the Domestic Abuse Bill, which had cross-party support and that of the Domestic Abuse Commissioner, the Government instead agreed to introduce the Support for Migrants Victims (SMV) pilot scheme for women with NRPF facing domestic abuse. The Government said that it needed more evidence before it could introduce any policy change. This is despite the fact that they had supported a previous pilot scheme run by SBS and funded by the Tampon Tax Fund (TTF)¹⁰ and several submissions made by agencies, including SBS, LAWRS, Sagety4Sisters and the Angelou Centre to the Migrant Victim's Review.¹¹

The SMV pilot is being delivered by SBS in a UK wide partnership. It began in April 2021, and was initially extended into its second year to end in March 2023. The Home Office recently also agreed to extend the scheme for another two years, pending a longer-term solution. These extensions to the SMV service indicate the Home Office recognise the vital importance of providing financial support to migrant women with NRPF.

The pilot, however, only pays towards victim's rent and subsistence for a period of up to 12 weeks to enable them to escape abuse and access legal advice to regularise their status and other holistic support. In the first year, the pilot assisted about 400 victims and their children. In year two, it assisted 560 victims, but we are concerned that many on non-spousal/partner visas and undocumented victims have not come forward as it does not also give them the right to settlement; although the advocacy service refers and support women to regularise their status where possible. Furthermore, although there is some flexibility, the pilot needs to pay more for longer, which indicates a need to introduce Universal Credit rates and access to benefits as well as housing under the Homelessness Act. There is also need to provide holistic wrap around

¹⁰ R.K.Thiara, 2020, Safe and Secure; The No Recourse Fund. Report of Findings, Southall Black Sisters. Online: <https://southallblacksisters.org.uk/news/safe-and-secure-the-no-recourse-fund-report-of-findings/>

¹¹ See the Government's review below, but it should be noted that many organisations working with victims disputed their conclusions: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/897472/Migrant_Victims_of_Domestic_Abuse_-_Review_Findings_v3_FINAL.pdf

support such as counselling and peer group support to help women and children overcome trauma and isolation. This support is currently mainly being provided in kind as SMV funding is insufficient to cover all of these costs.

Research and Evaluation

An independent evaluation report funded by the Home Office has been produced, but remains unpublished. SBS has also commissioned an evaluation by the London Metropolitan University, which will be published soon.¹² The findings of the latter evaluation show that providing financial assistance is a vital safety net, but victims do need more money for longer as the current rates are below those for Universal Credit, despite a recent rise to deal with the cost-of-living crisis. Many are still unable to access a refuge in areas where there are high rents, and instead women and children are housed in unsuitable accommodation such as bed and breakfast or hotels. Also, some refuges are reluctant to accept referrals if funding is only available for a short period, particularly in complex spousal/partner, non-spousal/partner visa and undocumented cases which may take some time to resolve. This evaluation recommends an extension to the DVILR and the DDVC to protect all migrant victims as well other reforms such as extending the DDVC to six months. The echoes the recommendations of the independent evaluation by the University of Warwick of the previous TTF funded pilot.¹³

The DAC's social value research report published in 2022 and conducted by the London School of Economics and the Oxford Migration Observatory found that the extension of the DVILR and the DDVC model would produce major cost benefits with social gains worth of 4.0 in year one, rising to 4.3 (over £2 billion) over 10 years. It also estimated that there were potentially 32,000 victims with NRPF likely to report domestic abuse to an authority each year, and that only 7,700 of these victims are likely to access a refuge or accommodation for a short period. The DAC therefore recommends the extension of the model with benefits being available for six months.¹⁴

The Istanbul Convention

In July 2022, the Government ratified the Istanbul Convention, but placed a reservation on Article 59 which gives residency rights to migrant women who face abuse from a spouse or partner. It stated the reservation was a temporary measure while they evaluate the SMV pilot scheme, after which they will reconsider the matter. However, the pilot's evaluation assesses the impact of support to victims, not the impact of providing status. While the ratification is welcome, the reservation discriminates by restricting the rights of migrant women to safety currently available to non-migrant women.

Conclusion

The evidence and experience show that victims of domestic abuse need both the right to settlement and public funds in order to come forward and be safe. These rights improve

¹² The report is being produced by Dr Sukhwant Dhaliwal and Prof Liz Kelly from the Child and Women Abuse Studies Unit (CWASU) at the University.

¹³ R.K.Thiara, 2020, Safe and Secure; The No Recourse Fund. Report of Findings, Southall Black Sisters..Online:

<https://southallblacksisters.org.uk/news/safe-and-secure-the-no-recourse-fund-report-of-findings/>

¹⁴ Domestic Abuse Commissioner, 2022, Safety before status. The solutions. Online:

<https://domesticabusecommissioner.uk/wp-content/uploads/2022/12/Safety-before-status-The-Solutions.pdf>

outcomes substantially in terms of leaving and reporting abuse, preventing destitution and recovering from anxiety and trauma. This is why the DVILR and the DDVC model is so effective. The number of migrant victims who would benefit are small, but significant; and with high social gains. As the Government often says, migrant victims are 'victims first and foremost'¹⁵ and all victims have a right to protection from domestic abuse.

3. Survivor's Voices

1.Survivor's story: Firewall Case study from Safety4Sisters

Serena* is from Pakistan and came to the UK on a student visa. Serena entered into a relationship with her partner and after just a few weeks, his behaviour started to change. He began to subject Serena to high levels of coercive control, not allowing her to leave their home and controlling who she could see, what she could eat and how she could dress. He soon began physically assaulting Serena. The perpetrator would tell Serena that because of her immigration status no one would be willing to help her; he would regularly threaten to have the Home Office deport Serena if she tried to access support.

After 5 months of the relationship, Serena disclosed to her GP that she was being abused. Serena explained that she was terrified to report the abuse to the police, because she believed they would notify the Home Office and have her deported. The GP reassured Serena and contacted the police. Serena was taken to a police station and after waiting for over 6 hours, she was asked to provide a statement. Serena was asked by the police officer to take out her wallet and mobile phone, where the officer began looking through her cards and ID. Serena stated that she felt like she was being treated like a criminal, not as a victim of violence.

Once Serena finished giving her statement, she was taken to a hotel and told that in the morning they would take her to the Home Office. Serena was immediately terrified, and asked why this was necessary. The Officer stated that they needed to confirm her immigration status. Serena was left in the hotel without her personal items (including her phone and wallet) or any food.

Serena was picked up early the next morning by the police officer and taken to Immigration Enforcement. Serena was left alone for hours, until eventually someone took her personal details and finger prints. Serena was once again left for hours, stating that she was shaking and crying during this time, waiting for someone to deport her. After 6 hours, another person appeared, gave her papers, and told her that she was now a registered asylum seeker. Serena did not know what this meant, and no one explained it to her. Instead, she was taken to another hotel where other residents there explained what asylum meant. Serena was confused and upset that no one had asked her if this was what she wanted. Serena never heard from the police again after she provided her statement.

¹⁵ <https://homeofficemedia.blog.gov.uk/2021/04/29/domesticabuseactfactsheet/>

Serena was eventually referred to Safety4Sisters by staff at the hotel. At the point in which Serena began to access support, she was experiencing high levels of trauma not only from the violence that she experienced from the perpetrator but due to her experience with both the police and immigration enforcement.

Serena states: *'Now I think back to that time, it was a nightmare. Like one hell to another. I was alone and scared, and I felt I put myself into even more danger by talking to the police and the Home Office. I was treated like a criminal, not a victim.'*

** Name has been changed to protect the woman's identity*

2. Survivor's Story: NRPF

Case study from Southall Black Sisters

"I came to this country in 2018. The last four years have been the scariest and most difficult of my life. From having sleepless nights worrying about how my future will look to mentally preparing myself for my abuser's next outburst over smallest of things, I hope and pray that I can get through it if not for myself then for my children. I've become anxious and depressed throughout this process. This predicament has caused me financial as well as bodily harm.

I have so much to say, yet nothing comes out of my mouth, it's as if my mind refuses to let go. My children were constantly surrounded by extremely toxic behaviour of my husband, he would curse me all day and night, threatening to throw me out, at times he would start cursing the kids.

I was treated like a prisoner and wasn't allowed to leave the house. Always been told that "I don't know anything" or I'll get lost and it will never be safe. He duped me into believing that I would be nothing without him. When my children and I first came to the country we were denied the basic necessities such as; a bed to sleep in or blankets to keep us warm. We slept on the floor instead. The house was falling apart but he didn't care. One day the ceiling came down but thankfully my children were not in that room. I still shiver at the memory of that.

I finally left my husband when he reacted very aggressively to the news that I had found a job, that I was able to do something on my own. He started verbally and physically assaulting both my kids and me. I knew that there was no going back after this. I wonder what might have happened to me and my children if I had not decided to leave, especially as we were all in small place during Covid.

The police helped me to contact SBS after a family friend, who is British, called the police as I was too frightened to do so. I was worried that I did not have a passport to show my visa. The police listened to the British person. I told SBS about my situation and I later learnt that I was a dependant on his work visa. But later he somehow got indefinite leave to remain, but not for me or the children. It's also then I came to know about NRPF and what it means and how it works. To say I was shocked would be an understatement. Reality hit me really hard.

My husband was an immigration solicitor and he know the law and all the loopholes. I remembered his threats that nobody would help me if he threw us out of the house. That I had no rights and would be deported.

I was terrified, for myself and my kids. However SBS took me under their wing, they provided me safe place to stay, 50 quid per week. Was it enough? No, how could it be with 3 people. We were not even able to have 3 meals. All we had was instant noodles I didn't know what to do - should we eat or should we buy stuff for personal hygiene cause that was also a basic necessity. For the first 2 months kids were not able to go school. It was a nightmare. Later on SBS increased our individual grants and that's when the kids were able to get back to schooling. My son wore torn shoes or we didn't have clothes appropriate for the weather. At first, we were all in one hotel room, but later SBS managed to fund a larger place.

It wasn't easy and still is not.

It's terrible to be dismissed because you are a NRPF case, it feels inhuman. It's heart breaking to see the challenges people with NRPF face with little to no help .

It's tough for me to see where I am today or what my future holds. I cannot return to India as a divorced women – that is very shameful and women are harassed and abused. They are blamed for causing dishonour.

I'm in such a vulnerable situation that I'm constantly confused and anxious. I'm not sure how I'll be able to provide a stable future for my children and myself now. It kills me to think that in the end he will be the one with little to no harm in his life. NRPF and no rights to stay here still gives him the power to control me.

However, every morning when I wake up I tell myself that he isn't here anymore and can't hurt me today that I can walk about freely. That makes leaving my husband all worthwhile.

But women should be able to have public funds and the right to stay. My situation is no different to someone here on a spouse visa – but I do not have the same rights. We should all be protected.”