

Call for evidence: Victims and Prisoners Bill

Public Bill Committee

Joint submission by the Latin American Women's Rights Service (LAWRS), the Anti-trafficking and Labour Exploitation Unit (ATLEU), Focus on Labour Exploitation (FLEX) and Kanlungan.

June 2023

1. Who we are

- 1.1. The **Latin American Women's Rights Service (LAWRS)** is a human rights, feminist organisation *by and for* Latin American migrant women living in the UK. We support 2,000 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. We also actively advocate for women's rights, migrant's rights and the rights of ethnic minorities, working with sister organisations in ending violence against women and girls (VAWG), migrant and anti-slavery and anti-trafficking sectors.
- 1.2. The **Anti-trafficking and Labour Exploitation Unit (ATLEU)** is based in London and Sheffield and is the only UK charity providing dedicated and holistic legal advice to survivors of trafficking and modern slavery. Our specialist multidisciplinary legal team assists survivors to resolve multiple and complex problems, providing advice and representation to help them escape, recover and rebuild their lives: securing safe and appropriate housing, regularising immigration status, obtaining trafficking identification, subsistence and support, and recovering compensation from their traffickers or the state.
- 1.3. Founded in 2013, **Focus on Labour Exploitation (FLEX)** is a research and policy organisation with a vision of a world free from all forms of labour exploitation, including forced labour and human trafficking. Our mission is to end labour exploitation by challenging and transforming the systems and structures that make workers vulnerable to abuse.
- 1.4. **Kanlungan** is a registered charity consisting of several Filipino and Southeast and East Asian community organisations working closely together for the welfare and interests of Filipino and other migrant communities in the UK.

2. Introduction

- 2.1. We welcome the introduction of the Victims and Prisoners Bill and the opportunity to submit evidence to the Public Bill Committee scrutinising it. 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. In particular, we believe that the Bill misses an opportunity to enshrine in legislation safeguarding provisions for all victims of crime, including those with insecure immigration status¹, that would allow them to report crimes and access support. The Bill also fails to include any provisions that address specific needs of victims of trafficking and modern slavery.

3. Exclusion of victims of trafficking and modern slavery

- 3.1. While the UK could once be called a leader in the fight against human trafficking and modern slavery and praised internationally for its efforts to fight these crimes, the current landscape is one of unfortunate regression in terms of victim protection and compliance with international commitments and obligations.
- 3.2. In recent years we have seen a heightening of anti-immigration rhetoric from the Government and an effort to shift public perception of migrant victims of trafficking and modern slavery, depicting them instead as immigration offenders. Unevidenced claims² of migrants 'gaming' the system have been made by government officials to this end, and in 2022, modern slavery was even reclassified as an immigration issue³.
- 3.3. Organisations working in the anti-trafficking sector continually come into contact with victims who, despite being in need of support, reject the option of being referred into the National Referral Mechanism (NRM)⁴ for fear of not being believed and having to face detention and deportation. The period January to March 2023 saw the highest number of 'Duty to Notify' referrals (DtN), identified adults who do not grant consent to enter the NRM, since DtN referrals began to be recorded in 2015.⁵ The introduction of legislation which seeks to criminalise victims, such as the recent Nationality and Borders Act and the Illegal Migration Bill⁶ currently going through Parliament, will further reduce victim's access to crucial support, instead playing into the hands of traffickers and exploiters who will now be able to tell victims that if they were to seek help, they would instead be treated as criminals and subject to detention and removal.

¹ People with 'insecure immigration status' are those whose status is temporary or insecure due to waiting for a decision about their permission to stay, or because they are dependent on their partner, spouse or other family member's status. Their stay is usually limited, they may be undocumented or do not have legal rights to stay (Equalities and Human Rights Committee, 2017; Safety4Sisters, 2016).

² Unseen - [Modern slavery and immigration – the facts](#)

³ Anti-slavery International - [In the spotlight: the UK's human rights and modern slavery record under review](#)

⁴ The UK's official system for identification and support of victims of trafficking and modern slavery

⁵ Modern Slavery: [National Referral Mechanism and Duty to Notify statistics UK, Quarter 1 2023 January to March, Published 4 May 2023.](#)

⁶ [Illegal Migration Bill – Joint civil society briefing for the House of Lords second reading](#)

- 3.4. The Victims and Prisoners Bill provides an opportunity to enshrine in legislation safeguarding provisions for all victims of crime, including victims of trafficking and modern slavery with insecure immigration status, so that they are able to receive support whether they wish - or are able to - access the NRM or not, from the point of reporting a crime or seeking support.

4. Safe reporting mechanisms for victims

4.1. Migrant Victims of Crime

- 4.1.1. As recognised by the Government,⁷ immigration status can be a risk factor for becoming a victim of serious crime, including trafficking and modern slavery. Having control over someone's immigration status, their right to live and work in the UK, allows employers to control, threaten and trap victims in exploitative working conditions. It is often as a result of the exploitation that victims lose their legal status. Such is the case when, for example, an employer gives false information to the worker about their immigration status or their right to work in the UK, 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.
- 4.1.2. 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 statutory agencies.
- 4.1.3. 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.⁸ 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.⁹
- 4.1.4. Similarly, victims of labour exploitation including trafficking and modern slavery who do not have secure migration status, will often feel unable to report instances of abuse and exploitation to the police (or other authorities, such as labour market enforcement) due to the fear that authorities will prioritise their immigration status over the crimes that they have faced or wellbeing. This acts to heighten their existing vulnerability, with exploiters able to take advantage of this dynamic, and act with impunity.

⁷ 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](#); Home Office. 2021. [Domestic Abuse Draft Statutory Guidance Framework](#), para 85.

⁸ 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>

⁹ Ibid.

- 4.1.5. Victims of exploitation supported by LAWRS do not generally consent to a referral to the National Referral Mechanism or wish to contact the police unless they have secure immigration status. In spite of a desperate need for support, they choose to remain underground for fear of Immigration Enforcement. Often having received threats or been lied to by their exploiters, victims do not know or believe that they have a right to receive support.

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 was not able to 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.

4.2. **Lack of safe reporting mechanisms and exclusion from the CJS**

- 4.2.1. Data sharing between statutory services and Immigration Enforcement constitutes one of the most severe barriers to safety for migrant victims. Following the first super-complaint investigation, these data sharing arrangements were found to significantly harm victims of crime and the public interest, as crimes are not reported and therefore remain unpunished.¹⁰
- 4.2.2. When migrant victims fear reporting a crime such as trafficking and modern slavery to the police or other statutory services, perpetrators are given a powerful tool to continue to abuse and exploit other people. This perpetuates a culture of impunity which sends the message that abusing migrant victims will carry no consequences. It also further harms the relationship between statutory

¹⁰ [Safe to share? Report on Liberty and Southall Black Sisters' super-complaint on policing and immigration Status](#), 2020.

services and migrant communities, making it more difficult to access valuable information necessary to investigate crime and prosecute perpetrators.

- 4.2.3. 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 Secretary¹¹, and is also a breach of international law, as victims are not supported and criminal investigations are not pursued.
- 4.2.4. Ultimately, as victims are made too fearful to come forward, the police are unable to prevent and address serious crime, like trafficking and modern slavery, without access to the intelligence needed to identify and prosecute perpetrators. Where immigration enforcement is prioritised, migrant victims of crime are unable to avail of safety and justice, and offenders are able to continue to drive others into exploitation. This undermines public safety as a whole.

CASE STUDY 2

Elma* was a carer to her employer in Hong Kong. She administers her medication, provides personal care like washing, toilet support, and feeding, among other tasks. One day she was told the employer was coming to the UK for medical treatment because of her chronic illness and disability. Elma asked if she could go home instead, as she did not want to come to the UK. The employer refused, and told her she needs a carer in the UK.

Elma was brought to the UK by her employer on a domestic workers' visa. Once in the UK, the employer did not pay her, nor did she give her food. Elma was fed biscuits and coffee every day and occasionally her employer would share with her leftover food. Elma slept on the sofa, with no blanket during the cold winter. She had to use the public toilet in the building because the employer would not allow her to use the toilet in the house. She lost weight and started to feel ill.

She managed to leave her employer last May 2023 with the help of someone in the building where the employer lives who took her to Kanlungan's office for support. She did not have her passport because the employer retained it. She does not want to file a case against her employer for labour abuse or to be referred into the National Referral Mechanism. Although Kanlungan has assured her she will be supported throughout the process, she is afraid they will send her home. She needs to work so she can provide for her family.

- 4.2.5. Moreover, research shows that in cases involving migrant women, the police are even less likely to conduct criminal investigations and bring criminal charges.¹² In recent years, we have seen increasing levels of mistrust in the CSJ amongst

¹¹ [Consultation outcome. Delivering justice for victims: Consultation response](#). 2022.

¹² [Policy Evidence Summary 1: Migrant Women. 2018](#).

migrant communities. Owing to the increased internal immigration controls within the provision of services that characterises the hostile immigration policy, this fear has expanded.

4.3. **Immigration Enforcement Migrant Victims Protocol: A flawed and insufficient ‘safeguard’**

- 4.3.1. The independent investigation of the data-sharing super-complaint presented by Southall Black Sisters and Liberty in 2019 concluded that significant harm is currently being caused to the public interest *‘because victims of crime with insecure immigration status are fearful that, if they report to the police, their information will be shared with the Home Office and/or the reported crimes will not be investigated’*. They also recommended *‘establishing safe reporting pathways, informed by the realities of victims’ experiences, that reflect existing laws on everyone’s right to data protection’*.¹³
- 4.3.2. The Immigration Enforcement Migrant Victims Protocol (henceforth *‘the Protocol’*) is the Government’s response to this super complaint, and in their response to the consultation on the draft Victims Bill,¹⁴ the Protocol is described 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 arrangements¹⁵. Our organisations, who support migrant victims of exploitation on a daily basis, believe that the Protocol is not a viable alternative to safe reporting mechanisms and therefore strongly oppose its development and implementation.
- 4.3.3. 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 approaching any law enforcement agency to report a crime or seek support, and more likely to remain in abusive or exploitative situations.
- 4.3.4. 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

¹³ [Safe to share? Report on Liberty and Southall Black Sisters’ super-complaint on policing and immigration Status](#). A joint investigation on Her Majesty’s inspectorate of constabulary and Fire & Rescue Services, the College of Policing and the Independent Office for Police Conduct.

¹⁴ [Delivering justice for victims: Consultation response](#). Ministry of Justice, 2022.

¹⁵ [Joint response to the “Home Office and Police data-sharing arrangements on migrant victims and witnesses of crime with insecure immigration status”](#), 2022.

crime.¹⁶ 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 removal. 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.

- 4.3.5. 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 of modern slavery involving migrant women being dismissed and/or discontinued without even informing the victim and their support worker.
- 4.3.6. To conclude, we reject the proposed Protocol as an alternative to safe reporting mechanisms. 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.

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

- 5.1. In order to ensure equal access to justice and support for all victims, it is essential that this Bill guarantees that all victims, including those 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.
- 5.2. 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.
- 5.3. 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

¹⁶ [Home Office and Police data sharing arrangements on migrant victims and witnesses of crime with insecure immigration status](#), 2021.

proceedings which will in turn allow the police to hold perpetrators to account and prevent crime.¹⁷

- 5.4. It is our hope that the Victims and Prisoners Bill will deliver a true cultural shift in victim's experiences. We urge the Public Bill Committee to consider establishing a firewall between statutory services and Immigration Enforcement through this bill, and protecting *all* victims and witnesses of crime, including trafficking and modern slavery.

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

For further information please contact:

Dolores Modern
Policy and Communications Manager on Labour Exploitation
Latin American Women's Rights Service (LAWRS)

dolores@lawrs.org.uk

¹⁷ 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.