

# Written evidence to the Public Bill Committee of the Victims and Prisoners Bill: Latin American Women's Rights Service and Step Up Migrant Women Campaign

June 2023

## 1. About us

- 1.1. The Latin American Women's Rights Service (LAWRS) is a human rights and feminist organisation led *by and for* Latin American migrant women living in the UK. We support over 2,000 women yearly 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. The 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.

## 2. Introduction

- 2.1. For several years, the government promised to legislate to enshrine enhanced rights and entitlements for victims of crime. The Victims and Prisoners Bill offers an opportunity to improve victims' access to justice and support. However, as introduced to Parliament, the Bill falls short of its commitment to ensuring victims' experiences accessing the Criminal Justice System and support services are strengthened.
- 2.2. There are several areas in need of significant revision as part of this scrutiny process. Some of the key priorities from the VAWG sector we support are a provision for sustainable funding for specialist community-based services supporting victims of violence against women and girls (VAWG); concern about the unintended consequences of the proposed definitions of IDVAs and ISVAs for other models of support; the need to incorporate a system of enforcement of the Victims Code; the improvement of systems of support for victims of rape and sexual abuse (including keeping counselling notes confidential and access to independent legal advice and representation); a guarantee of adequate protection for victims of VAWG who are accused of offending; and introduce measures to address and respond to victims needs when having communication barriers. Finally, we join calls to remove part 3 of

the Bill on prisoners and parole, due to lack of adequate consultation and scrutiny and of the risk it poses to Human Rights.

- 2.3. There is a broader consensus that one of the most significant gaps of this Bill is the lack of protection for migrant victims despite their increased susceptibility to experiencing serious crimes, including various and overlapping forms of VAWG. There are two main areas in which this Bill can ensure migrant victims are protected without discrimination: safe routes to report a crime and access support, and allowing those women with No Recourse to Public Funds (NPRF) access help.
- 2.4. This submission focuses on the need to introduce safe reporting mechanisms through a firewall to ensure migrant victims have equal opportunities of accessing justice and safety.

### **3. Victims with insecure immigration status and data-sharing with Immigration Enforcement**

- 3.1. Migrant women are disproportionately impacted by VAWG. As recognised by the government, this vulnerability is linked to the limited avenues to support available due to their insecure immigration status.<sup>1</sup> Moreover, perpetrators of abuse exploit women's status to limit their options further, keeping them trapped in abuse.
- 3.2. Amongst migrant victims of VAWG, **one of the most significant barriers to accessing support and justice is low confidence in approaching the police and other statutory agencies to report crime and ask for help.** This lack of trust is not unjustified but fostered by existing data-sharing agreements between statutory services, including the police and the Home Office. Recent FOI showed that between May 2020 and September 2022, the police shared the details of over 2,000 vulnerable victims<sup>2</sup> with Immigration Enforcement after victims reported the crime. Some of these victims have been served with enforcement papers and are at risk of deportation.<sup>3</sup>

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<sup>1</sup> The *abuse. Statutory Guidance* recognises that victims' immigration status might create greater barriers, including financial dependency on perpetrators, preventing them from escaping abuse.  
[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/108901/5/Domestic\\_Abuse\\_Act\\_2021\\_Statutory\\_Guidance.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/108901/5/Domestic_Abuse_Act_2021_Statutory_Guidance.pdf)

<sup>2</sup> Among these 2,000 victims, 451 were victims of domestic abuse; 75 were victims of child sexual exploitation; 60 victims of sexual exploitation; 20 victims of forced marriage.

<sup>3</sup>  
<https://www.thedetail.tv/articles/uk-police-forces-referred-thousands-of-migrant-victims-of-crime-to-immigration-authorities>

- 3.3. Data-sharing for immigration control purposes is used by perpetrators as a tool of coercive control to threaten women with removal if they seek support or report them to the police. Evidence produced by Imkaan revealed that over 90% of migrant women had received threats of deportation from their abusers.<sup>4</sup> Furthermore, research by the Latin American Women's Rights Centre (LAWRS) and the Step Up Migrant Women campaign shows that 1 in 2 migrant victims of VAWG does not report abuse to the police for fear of disbelief, destitution, detention and deportation.<sup>5</sup>
- 3.4. Information sharing for immigration control not only harms migrant victims. An independent police watchdog investigation found that **significant harm to the public interest is caused as migrant victims are prevented from reporting to the police**<sup>6</sup>, allowing abusers to remain unpunished and free to target other victims, creating a significant threat to public safety. A high-profile example of this damage is the recent case of former police officer David Carrick. Last February, Darciane Nunes Da Silva, a Brazilian victim of VAWG, bravely disclosed how, as part of the horrific abuse she endured at the hands of Carrick, he would threaten her with deportation if she didn't do what he ordered.<sup>7</sup>
- 3.5. Due to the prevalence of abuse, many other migrant victims may be experiencing similar situations to Darciane but feeling terrified from approaching the police to disclose and provide evidence to strengthen cases/investigations against perpetrators. Our experience shows that **by cooperating with immigration authorities, the police are missing the opportunity to access valuable intelligence needed to identify, prosecute abusers and safeguard victims**. In addition, we witness the high cost for the police to undertake immigration tasks, resulting in a significant deterioration of migrant victims' trust in the institution. This lost opportunity becomes more relevant as national strategies to increase victims' trust in police are being designed and implemented.<sup>8</sup> We have argued that whilst the police are asked to act as immigration enforcers, migrant communities won't report crimes or collaborate

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[https://static1.squarespace.com/static/5f7d9f4addc689717e6ea200/t/61e6a6236285992a0aca6f0c/1642505778651/2012+\\_+Imkaan+\\_+Vital+Statistics+Two+%28Low+res%29.pdf](https://static1.squarespace.com/static/5f7d9f4addc689717e6ea200/t/61e6a6236285992a0aca6f0c/1642505778651/2012+_+Imkaan+_+Vital+Statistics+Two+%28Low+res%29.pdf)

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<https://stepupmigrantwomenuk.files.wordpress.com/2019/05/the-right-to-be-believed-key-findings-final-1.pdf>

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[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>7</sup> <https://www.mirror.co.uk/news/uk-news/victim-police-rapist-david-carrick-29134439>

<sup>8</sup> <https://www.npcc.police.uk/our-work/violence-against-women-and-girls/>

with investigations and, therefore, will be barred from accessing the Criminal Justice System altogether.

- 3.6. As a result of the lack of safe reporting mechanisms, migrant victims face a post-code lottery when coming forward and seeking help. The data-sharing super-complaint investigation found that some police officers and statutory workers fail to understand the negative consequences of sharing data with Immigration Enforcement.<sup>9</sup> Further, **it is detrimental to request underfunded and stretched-in-capacity agencies (the police, social services and other statutory services) to take on immigration-related activities when, as defined by the Law Commission, the immigration system in the UK is overly complex to understand and enforce.**<sup>10</sup>

#### 4. Firewall to improve migrant victims' experiences

- 4.1. For several years, we have 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. **There is broad support for the introduction of a firewall.** Cross-party Parliamentarians and Independent Commissioners strongly support this call, including the Domestic Abuse Commissioner, the former Victims Commissioner and the London Victims Commissioner. Recently, **the Justice Committee scrutinising the draft of this Bill recommended the introduction of a complete firewall** and called for the immediate end of data-sharing between the police and Immigration Enforcement.<sup>11</sup>
- 4.2. Establishing a firewall would benefit victims, statutory agencies and the public interest. A firewall would allow migrant victims to access support and report crimes at early stages, preventing cases from further deteriorating victims' (including children's) health and wellbeing. **This could be cost-saving in the long term as victims can access early interventions to prevent further harm.**
- 4.3. **A firewall could remove the pressure to make immigration-related decisions from individual police officers** allowing them to develop strong communication channels with migrant communities to increase police access to intelligence to tackle VAWG.

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<sup>9</sup> The data-sharing super-complaint investigation found a lack of awareness in forces about the implications of sharing information with Immigration Enforcement and the potential enforcement activity that might be taken. [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) p. 11

<sup>10</sup> <https://www.theguardian.com/uk-news/2020/jan/14/uk-immigration-rules-unworkable-law-commission>

<sup>11</sup> <https://committees.parliament.uk/publications/28831/documents/174248/default/> pp. 9-10.

Having a firewall on a statutory footing would also simplify guidance for police officers on how to act when encountering a migrant victim.

4.4. **A firewall can also be a positive action to enhance strategies of trust building amongst marginalised communities.** It can help foster victims' and witnesses' collaboration with law enforcement and other agencies to access essential information to prosecute perpetrators and prevent them from offending with impunity. A firewall would be a step forward in removing perpetrators' power over migrant victims. In collaboration with community-based organisations, awareness campaigns around the existence of a firewall can increase victims' willingness to approach the police.

4.5. **Introducing safe reporting mechanisms is possible.** Firewalls have been implemented internationally. In 2013, Amsterdam police, aware of the negative consequences of not having access to information about criminal activities experienced by migrant communities, introduced a firewall pilot called “free in, free out”. This policy allows migrants with insecure status to report crimes without having the police act on their immigration status. Due to positive results, this policy was instituted at the national level.<sup>12</sup> In the UK, after the super-complaint process, local police forces are implementing safe reporting multi-agency local guidance (Northumbria PCC and police) and firewalls (Surrey police) to improve migrant women’s trust to access support when experiencing domestic abuse. It’s key to highlight that these policies and guidance have been developed in close collaboration with specialist organisations working with migrant victims of VAWG.

## 5. Government’s position

5.1. Despite the wealth of evidence of the harms of data-sharing for immigration control, the government has rejected the calls to introduce a firewall. Responding to the Select Justice Committee's recommendation to introduce a firewall, they argued that changes are unnecessary as a Protocol and a Code of Practice for domestic abuse victims are being developed.<sup>13</sup>

5.2. As many relevant stakeholders have stated, **these alternatives are unsuitable for improving migrant victims' experiences as they will continue to be excluded from**

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[https://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)

<sup>13</sup> <https://committees.parliament.uk/publications/28831/documents/174248/default/>

**accessing the CJS whilst allowing perpetrators to continue evading justice.**<sup>14</sup> Alongside a group of organisations, we have raised our concerns about these government proposals, which fail to be informed by the realities of victims as recommended by the data-sharing super-complaint investigation. **We worry that these proposals will worsen the situation for migrant victims by expanding cooperation between Immigration Enforcement officers and the police.**<sup>15</sup> We fear they will increase perpetrators' power to exploit victims' vulnerabilities and the burden for police by being requested to assume more complex immigration control tasks.

- 5.3. In their response, the government says that identifying a victim's immigration status could help determine their entitlements. Although we agree on this point, we oppose the idea that Immigration Enforcement officers are equipped to do so in a trauma-informed way. **Safeguarding vulnerable victims whilst having to enforce immigration regulations is incompatible.** Their lack of specialist knowledge can lead to misleading and even negligent and harmful advice may be being given. They are part of an immigration system in which their primary function is to control borders. Precisely because of this, they will not be perceived as having a safeguarding role. Especially when, on many occasions, this cohort of victims is more afraid of the Home Office than of their perpetrators. Migrant victims' status can be identified in a safe trauma-informed space provided by specialist organisations which are best suited to provide the specialist support and safeguarding measures that migrant victims need.
- 5.4. There is limited public information about how the Immigration Enforcement Migrant Victims Protocol mentioned in the government's response to the firewall recommendation would work. According to the Home Office, with the implementation of the Protocol, no immigration enforcement action against victims of crime will take place while criminal investigations and proceedings are ongoing.
- 5.5. This principle gives no guarantees to victims and witnesses of crime before reporting, as they do not know if a criminal investigation or related proceeding will occur. In fact, research has shown how in cases involving migrant women, the police are even less

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<https://domesticabusecommissioner.uk/vulnerable-survivors-failed-as-government-rejects-recommendations-that-would-protect-migrant-victims-of-domestic-abuse-says-domestic-abuse-commissioner/>

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[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)

likely to conduct criminal investigations and bring criminal charges.<sup>16</sup> **The no enforcement action principle from the Protocol ignores the Crown Prosecution Service's (CPS) data showing a decline in charges, prosecutions and convictions for domestic abuse and other VAWG crimes.**<sup>17</sup> Additionally, it fails to consider how due to institutional failures to protect them, a considerable number of victims drop out of the justice system.<sup>18</sup>

- 5.6. When opposing the introduction of a firewall, the government has claimed on numerous occasions that a complete firewall can be exploited by criminals pretending to be victims to avoid being brought to justice. Existing checks and balances to assess domestic abuse victims' entitlements to support make it immensely difficult for them to make unfounded claims of abuse and harm in order to manipulate the immigration system.<sup>19</sup> Furthermore, arguing that false accusations of VAWG will be made if a firewall is implemented contradicts the evidence showing how those fake claims are invariably and consistently low.<sup>20</sup> **Our main argument against this claim is that there is a wealth of evidence showing that it is perpetrators who exploit the current data-sharing agreements with Immigration Enforcement to abuse migrant women with impunity by telling them that they will be detained, deported and separated from their children if coming forward and seeking support.**
- 5.7. Finally, as we have previously stated, when a victim is accused of committing a crime, this situation should be dealt with through the Criminal Justice System rather than the immigration one to ensure that their rights are respected and that decisions are made through the lenses of justice outcomes and public safety rather than immigration control purposes.

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[https://research-information.bris.ac.uk/ws/portalfiles/portal/188884552/Policy\\_evidence\\_summary\\_1\\_Migrant\\_women.pdf](https://research-information.bris.ac.uk/ws/portalfiles/portal/188884552/Policy_evidence_summary_1_Migrant_women.pdf)

<sup>17</sup>

<https://domesticabusecommissioner.uk/todays-cps-figures-show-a-very-worrying-trend-for-domestic-abuse-victims/>

<sup>18</sup> Recent data has shown how nearly 70% of rape survivors have withdrawn their cases despite record highs in the prevalence of this form of VAWG. <https://www.theguardian.com/society/2023/may/30/nearly-70-of-victims-drop-out-of-investigations-in-england-and-wales>

<sup>19</sup> A good example of this is the number of safeguards that victims have to pass to access the Domestic Indefinite Leave Violence Rule (DVILR) and the Destitute Domestic Violence Concession (DDVC).

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<https://www.open.ac.uk/research/news/false-accusations-sexual-violence#:~:text=Studies%20carried%20out%20in%20Europe.crime%E2%80%9D%20or%20%E2%80%9Cunfounded%E2%80%9D.>

## 6. Conclusion

- 6.1. Establishing safe reporting mechanisms is vital to building trust and ensuring that migrant victims of crime feel confident in reporting crime and engaging in the criminal justice system. Safe reporting mechanisms can also help the police protect victims, conduct successful investigations, hold perpetrators accountable, and prevent crime.
- 6.2. The lack of safe reporting mechanisms is a justice issue. If the Victims and Prisoners Bill aims to truly transform all victims' experiences, increase reporting and improve justice outcomes, it must ensure that those who are less likely to access the Criminal Justice System are not impeded from doing so by policies that harm them and broader communities.
- 6.3. Introducing a firewall is possible and wouldn't represent a significant cost to the public purse. Structures are already in place to provide specialist training to statutory frontline workers such as police officers and social workers. Furthermore, if a firewall is implemented, organisations working with migrant communities will be willing to work with statutory services to inform their communities about these changes in legislation.
- 6.4. Overall, we agree with the Justice Committee's statement that: "*All those who have suffered harm must be able, and have confidence, to contact services such as the police, and access their rights as victims.*"<sup>21</sup> We hope that the scrutiny process at the Committee stage allows for an opportunity to make things right for migrant victims of crime.

**Contact:** Elizabeth Jiménez-Yáñez, Policy and Communications manager on VAWG [elizabeth@lawrs.org.uk](mailto:elizabeth@lawrs.org.uk)

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<sup>21</sup> <https://committees.parliament.uk/publications/28831/documents/174248/default/> p. 10