

Step Up Migrant Women Latin American Women's Rights Service (LAWRS) Establishment of Safe Reporting Mechanisms

The Domestic Abuse Bill has been described as a once-in-a-generation opportunity to address this crime affecting more than 2 million people per year in the United Kingdom, and which women are more likely to experience. However, the Bill continues to overlook one of the most vulnerable groups affected by this form of Violence Against Women and Girls (VAWG): migrant women. This is especially relevant in the context of the 'hostile environment'¹, given that, as evidence shows, police and other statutory services have prioritised immigration control over the protection of victims of domestic abuse.²

We are highly concerned about the damaging effects of invasive data-sharing agreements between statutory services, including the police, and the Home Office for immigration control purposes. This practice undermines trust in the police, deters victims of domestic abuse from reporting, increases their risk of enduring or suffering further abuse and prevents perpetrators - who often weaponise women's insecure immigration status as a tool of coercive control³ from being held into account.

We fear that the Bill will fail to be a ground-breaking piece of legislation, unless it guarantees that all domestic abuse victims, regardless of their immigration status, can fully exercise their human rights. For that reason, we are proposing an amendment for the provision of a clear separation between vital support services for migrant, Black and minoritised women and immigration enforcement authorities, so all women irrespective of their immigration status can access safety, support and justice.

Furthermore, not only is data-sharing a breach to the Human Rights Act (1998) and the Government's international human rights obligations⁴ to treat victims with respect in a non-discriminatory way but, by deterring reports, this practice continues to obstruct the work of public authorities in their obligations to prevent, detect and punish serious crimes.⁵

Key Recommendation

Victims of domestic abuse: data-sharing for immigration purposes

Amend the Bill to include a provision establishing safe reporting mechanisms for survivors accessing vital public services, so they can safely report abuse to the police, social services, health professionals and others with confidence they will be treated as victims and without fear of immigration enforcement.

¹ <https://www.libertyhumanrights.org.uk/issue/report-a-guide-to-the-hostile-environment/>

² <https://www.theguardian.com/uk-news/2018/dec/15/police-face-immigration-data-sharing-super-complaint>

³ https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/482528/Controlling_or_coercive_behaviour_-_statutory_guidance.pdf

⁴ https://tbinternet.ohchr.org/Treaties/CEDAW/Shared%20Documents/1_Global/CEDAW_C_GC_35_8267_E.pdf

⁵ <https://stepupmigrantwomenuk.files.wordpress.com/2018/06/laws-safe-reporting-roundtable-report.pdf>

How it would work: The proposed amendment requires the Secretary of State to make arrangements to ensure that personal data of a victim of a domestic abuse in the United Kingdom that is processed for the purpose of that person requesting or receiving support or assistance related to domestic abuse is not used for any immigration control purpose; and excludes the application of the immigration exemption in the Data Protection Act 2018 in such cases..

THE EFFECTS OF DATA-SHARING WITH THE HOME OFFICE FOR IMMIGRATION CONTROL PURPOSES

The Istanbul Convention, the landmark international treaty on VAWG which the Government has signed and is committed to ratifying, requires in Articles 4 and 59 that victims are protected regardless of their immigration status.⁶ Still, Freedom of Information (FOI) requests revealed that 27 out of 45 police forces (60%) in England and Wales share victims' details with the Home Office prioritising immigration control over victims' safety and access to justice.⁷

Lack of trust in statutory services

From our evidence-based work, we are aware that as a result of the 'hostile environment' many migrant women with insecure immigration status are reluctant to exercise their rights and less likely to report domestic abuse to statutory services, particularly the police.⁸ This is because in many cases immigration status has been prioritised above survivor's safety. To illustrate this, last year our report *The Right to be Believed*⁹, evidenced that 1 in 2 migrant women with insecure immigration status do not report abuse to the police for fear of disbelief, destitution, detention and deportation. Moreover, almost two-thirds of migrant women felt they would not be supported by the police due to their immigration status. This data is extremely concerning, as it shows that there is a whole group of women -migrant women with insecure immigration status- who are barred from accessing justice.¹⁰

In the midst of the COVID-19 global pandemic, domestic abuse and its intensity has surged.¹¹ Confinement and social distancing measures became a fertile ground for perpetrators to exert abuse on women. This unprecedented situation has shown the great importance of survivors trusting statutory services, particularly the police, in order to flee violence and be safe. However, as suggested by the Independent Domestic Abuse Commissioner, Nicole Jacobs, during the *Home Office preparedness for Covid-19 (Coronavirus): domestic abuse and risks of harm within the home* session, as a result of the lack of safe reporting mechanisms, migrant women with insecure immigration status still worry that by reporting domestic abuse they risk their immigration data being shared with the Home Office for the purposes of immigration control.¹²

In this vein, recently the UN Committee on the Protection of the Rights of All Migrant Workers and Members of their Families and UN Special Rapporteur on the human rights of migrants,

⁶ <https://www.coe.int/en/web/conventions/full-list/-/conventions/treaty/210>

⁷ <https://www.bbc.co.uk/news/uk-44074572>

⁸ <https://stepupmigrantwomenuk.files.wordpress.com/2019/05/the-right-to-be-believed-key-findings-final-1.pdf>

⁹ <https://stepupmigrantwomenuk.files.wordpress.com/2019/05/the-right-to-be-believed-key-findings-final-1.pdf>

¹⁰ Bates, L., Justice Project Team, and Hester, M. (2018), Policy Evidence Summary 3: Migrant Women. University of Bristol.

¹¹ <https://www.telegraph.co.uk/news/2020/05/27/national-helpline-charity-reveals-ten-fold-increase-visits-domestic/>

¹² https://publications.parliament.uk/pa/cm5801/cmselect/cmhaff/321/32105.htm#_idTextAnchor000

highlighted the importance of having a clear separation between immigration enforcement and public services so all migrants -regardless of their immigration status- can access justice.¹³

Increased vulnerability and risk of suffering domestic abuse

The different experiences of survivors of domestic abuse are linked to race, class and immigration status. Migrant women are more vulnerable to domestic abuse and domestic homicide¹⁴ since they face intersectional inequalities when fleeing violence and seeking support such as lack of understanding of the system, language barriers, the absence of a local support network, the lack of access to services, and not having access to public funds, amongst others. In the last years, this vulnerability has been exacerbated by hostile environment policies that prioritise immigration control rather than survivors' safety.

Case study: Sonia

In 2017 Sonia, an undocumented Brazilian woman, began a relationship with a British national. She suffered from physical, emotional and psychological abuse, including continuous threats of deportation by the perpetrator. In 2018, after an incident of physical violence, Sonia reported the abuse to the police, but instead of taking her statement, the police took her to another police station where she had been falsely accused of domestic abuse by her perpetrator, and she was arrested for the night. She was released under investigation, having been explained that her biometric details and photograph would be held and searched against the national databases. After this incident, fearful of immigration control, Sonia went underground and stopped coming to our service. Until now, she has not been able to regularise her immigration status despite being a survivor of domestic abuse.

Furthermore, as the *Draft Statutory Guidance Framework of the Domestic Abuse Bill* states, perpetrators routinely use immigration status as a tactic of coercive control towards migrant women who “fear being detained in immigration centres and being deported”¹⁵ if fleeing the abuse. Many women we support are misinformed about their immigration status and continuously threatened with deportation and separation from their children by their perpetrators, if they report the abuse.

Imkaan's *Vital Statistics* report¹⁶ shows that 92% of migrant women have reported threats of deportation from the perpetrator. The *Right to be Believed* report shows similar statistics with almost 6 in 10 women having received threats of deportation from abusers.¹⁷ These two pieces of evidence highlight that the lack of safe reporting mechanisms enables perpetrators to exert domestic abuse with impunity by weaponising women's immigration status.

¹³ <https://www.ohchr.org/Documents/Issues/Migration/CMWSPMJointGuidanceNoteCOVID-19Migrants.pdf>

¹⁴ <https://www.sistersforchange.org.uk/2017/11/20/unequal-regard-unequal-protection/>

¹⁵ https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/896640/Draft_statutory_guidance_July_2020.pdf

¹⁶ [Vital Statistics 2: Key findings report on Black, Minority Ethnic and Refugee Women's and Children's experiences of gender-based violence](#)

¹⁷ [The Right to be Believed. Migrant women facing Violence Women and Girls \(VAWG\) in the 'hostile immigration environment' in London](#)

Case study: Maria

Maria is an Ecuadorian woman who came to the UK in 2014. She met her partner at work. Since the beginning of the relationship, he was controlling and continuously lying to her about her immigration status. In 2019, violence escalated when Maria got pregnant. During this time, isolation, emotional abuse and manipulation were exerted while threats of deportation and separation from her child if she reported the abuse to the police intensified. Maria came to LAWRS asking for advice early this year. However, when the caseworker informed Maria that due to the high risk of her case safeguarding procedures were triggered and she would need to report the case to social services, Maria got terrified and demanded her file to be destroyed. Currently, Maria is being supported by LAWRS and social services, however she has not yet reported the abuse to the police since she is too fearful of deportation and possible separation from her child. The lack of safe reporting mechanisms has put her and her child at risk of enduring domestic abuse.

Impunity and lack of accountability

As a result of survivors with insecure immigration status' fear of reporting domestic abuse, perpetrators are not being held accountable for these crimes. Evidence shows that when domestic abuse crimes go unreported, public authorities -particularly the police- cannot follow their duty to detect and investigate serious crimes. Moreover, the Criminal Justice system fails in safeguarding victims and providing them access to justice while breaching their basic human rights. One of the consequences of putting immigration control above the safety of victims is that perpetrators can commit these crimes with impunity, a risk not only for survivors but for wider communities.

For instance, this impunity contributes to perpetrators exerting abuse on more than one woman. The incentives for reporting, including the certainty for victims that they will not be questioned about their immigration status, are paramount to prevent further crimes.

Case study: Lucía

Lucía is a Brazilian woman victim of domestic abuse by multiple perpetrators. Lucía met her first perpetrator online in 2016 while living in Brazil. In 2017, he convinced her to move to the UK with her 5-year-old son, to start a family together. On arrival, Lucía and her son were placed in a room on their own, where isolation, financial and emotional abuse started. Later, she discovered that he was in a previous relationship with another Brazilian woman. In 2019, Lucía got pregnant and domestic abuse escalated when she discovered that the perpetrator was trying to convince a third Brazilian woman to come to the UK and live with him. As a response, the perpetrator intensified threats of deportation, coercive control and isolation towards Lucía. Furthermore, there have been incidents of physical and emotional violence against Lucía's 5 years old son. Lucía's case is a high risk one and despite being advised to report to the police, threats of deportation from the perpetrator have prevented her from doing so.

The Government's position

The Government's response against our safe reporting mechanisms amendment is that statutory services, including the police, need to share victims' data to safeguard the victim. However, neither the government nor the police have been able to provide an example of a safeguarded

victim whose data was shared with immigration enforcement. This is because the Home Office is tasked to enforce current immigration policy and rules.

In contrast, it is the role and function of the police to safeguard victims (and investigate crimes against them). The expected response from immigration enforcement is to enforce, not to provide support. It is therefore unnecessary and counterproductive for the police and other statutory services to refer victims to immigration enforcement if their aim is to safeguard. We argue that victims of domestic abuse should be referred, by the police and other statutory services, to a specialist service whose sole purpose and function is to provide support and safety.

Case study: Gill

Gill came to the UK in 2016 from Brazil. She was convinced by her British partner that she would have a spousal visa, but he later refused to apply for one, leaving Gill undocumented. During this time, Gill endured multiple forms of domestic violence (financial, emotional, psychological, coercive control, and physical abuse) and repeatedly received threats of deportation in case she reported the abuse to the police. After an incident of physical violence, she reported him to the police but was refused support because of her insecure immigration status. Police suggested to her that her best option was to go back to Brazil and referred her to the Home Office. The response from the Home Office was that a voluntary return to Brazil would take a while to arrange. In the meantime, they could not help with accommodation or support—so Gill and one of her children moved between temporary shelters and slept on the street for three days in mid-January.

CONCLUSION

Despite there not being any legal duty on statutory services to share data of survivors with insecure immigration status with the Home Office, evidence and our own casework show that this is a regular practice that puts migrant women at risk. As a consequence of the remaining data-sharing practices, the trust from migrant survivors in statutory services continues to decrease. By establishing safe reporting mechanisms within the Domestic Abuse Bill, domestic abuse survivors will have the confidence to report their perpetrators and to access justice and safety. At the same time, it will offer a clear direction for statutory services to safeguard all victims of this crime.

Because of all the reasons above, we are calling for the incorporation of a clear statutory obligation which prevents public authorities and other support services from sharing data with the Home Office for the purpose of immigration control, to ensure that safe reporting is available to all women, regardless of their immigration status. This recommendation has been previously supported by The Joint Committee on the Draft Domestic Abuse Bill¹⁸ and the Independent Domestic Abuse Commissioner.¹⁹

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¹⁸ <https://publications.parliament.uk/pa/ft201719/ftselect/ftddab/2075/2075.pdf>

¹⁹ https://publications.parliament.uk/pa/cm5801/cmselect/cmhaff/321/32105.htm#_idTextAnchor040

About LAWRS

LAWRS is a by-and-for, feminist and human rights organisation focused on addressing the practical and strategic needs of Latin American migrant women living in the UK. LAWRS' mission is to provide Latin American migrant women with tools to assert our rights and pursue personal empowerment and social change. We directly support more than 5,000 women annually through culturally and linguistically specialist advice, information, counselling and psychotherapy, advocacy, development programmes, and workshops. We are active in evidence-based campaigning and policy work in the areas of VAWG and Employment Rights. Since 2017 we are leading the Step Up Migrant Women campaign.

About the Step Up Migrant Women campaign

Step Up Migrant Women (SUMW) is a campaign 'by and for' migrant Black and Minority Ethnic (BME). The SUMW coalition is formed by more than 50 organisations that work and advocate to support migrant women to access protection from abuse.