



#ProtectionForAll:

THE DOMESTIC ABUSE BILL & MIGRANT WOMEN

BRIEFING PAPER 2

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THE DOMESTIC ABUSE BILL & MIGRANT WOMEN

The current Domestic Abuse Bill ('Bill') fails to include and deliver meaningful protection to migrant women with insecure immigration status. Southall Black Sisters' (SBS) concerns are set out in full in our first briefing paper.

This paper responds to frequently asked questions (FAQs) and seeks to dispel misconceptions regarding migrant women with no recourse to public funds (NRPF). It also reiterates our three key amendments to the Bill and sets out the reasons behind them. This briefing paper should therefore be read in conjunction with our first [briefing paper](#).

- Around 60% of women who approach Southall Black Sisters (SBS) for support have insecure immigration status
- Women with NRPF are vulnerable to **high rates** of domestic and sexual violence, sexual and economic exploitation, domestic homicide (including so called 'honour' killings) and suicide
- Black and minority ethnic (BME) women suffer from disproportionately higher rates of these types of harms and deaths linked to a **history of abuse**
- Between July and September 2019, SBS had to challenge local authorities on 18 occasions for refusing to provide assistance to abused migrant women with children.



WHAT IS SBS CALLING FOR?

SBS is calling for three key amendments to the Domestic Abuse Bill:

1. Extension of eligibility under the Domestic Violence Rule (DV Rule) and the Destitution Domestic Violence Concession (DDVC) to protect all abused women with insecure immigration status.
2. Extension of the time frame for the DDVC from three to six months.

3. The introduction of a comprehensive strategy on violence against migrant women.

WHY IS PROTECTION FOR ALL VICTIMS OF DOMESTIC ABUSE NECESSARY, IRRESPECTIVE OF IMMIGRATION STATUS?

As things stand, many migrant women who are at risk of the most serious and prolonged forms of abuse, slavery and harm cannot access justice or protection if they have unsettled immigration status.

At least 60% of the women who arrive at SBS are subject to gender based violence *and* have insecure immigration status. Most have either arrived as the spouse of a British national or through other immigration routes. A large proportion also **have NRPE**, which is a condition of their stay in the UK. This means that they are not entitled to financial assistance from the state including most welfare benefits, like housing benefit and job seeker's allowance (now a part of universal credit), and social housing. This leaves many women with a



dangerous 'choice' between staying in an abusive relationship or facing destitution, homelessness and possibly detention and deportation (with potentially fatal consequences).

Many women are too scared to report their experiences to statutory agencies because they are wholly financially and otherwise dependent on their abusive spouses or partners, many of whom use women's immigration status as a weapon of control and coercion.

The denial of safety for abused migrant women not only has severe consequences for women but also for wider society: it creates a climate of impunity for perpetrators, who are able to evade justice and are given free rein to harm other women and children. Many of the women we support have been harmed by men who have committed violence against previous partners/spouses. Perpetrators weaponise women's immigration status by manipulating their fear of reporting abuse and their dependency on them for survival. The lack of adequate protection for abused migrant women essentially guarantees their silence and gives perpetrators a green light to commit violence against other women in our society.

In a context where generally violence against women seems to be increasing and more **women have been killed**, it is abused migrant women with insecure status who are particularly vulnerable to significant harm because they have no safety net or access to protection.

WHAT ARE THE DAILY CHALLENGES THAT YOU FACE IN SUPPORTING ABUSED MIGRANT WOMEN?

On a daily basis we face challenges in supporting women with insecure immigration status who report abuse. For example, it is incredibly difficult to secure refuge accommodation for them because refuges inevitably

need to know how their housing and subsistence costs will be met in the long term. Supporting migrant women is also resource-intensive and most refuges simply do not have the skilled or experienced staff to assist with complex immigration matters.

A further difficulty for migrant women is the very limited specialist refuge provision for BME women across the country (**with only around 30 in total**). These are mainly concentrated in London but they are oversubscribed and many are threatened with closure due to lack of funding.

IN 2017, MONITORING DATA ON REFUGE VACANCIES REPORTED AN AVERAGE OF ONLY ONE SPACE PER REGION IN ENGLAND FOR A WOMAN WITH NRPF

The Children

Act 1989 sets out local authority duties towards vulnerable and destitute women with children, including those subject to NRPF. Local authorities are obliged to provide accommodation and financial support for safeguarding reasons in such circumstances. However, they regularly fail to meet their responsibilities to vulnerable families for a number of reasons, including a lack of resources

and the absence of statutory guidance for those with NRPF. There is considerable inconsistency of practice across the UK in the support that is given to migrant women and children, who are left facing severe hardships and trauma. Where they refuse to support vulnerable and destitute women and children, we have no choice but to challenge local authorities, by threatening or initiating legal action. This is now a **frequent occurrence**¹ (see the case study of Ana below).



WHY SHOULD THE DV RULE AND DDVC BE EXTENDED TO ABUSED NON-SPOUSAL VISA APPLICANTS?

Access to basic support and financial resources is critical because it enables migrant women to escape abuse. It acts as a vital safety net; helping women to feel secure and enabling them to recover their dignity in the face of life-threatening and dehumanising treatment by their abusers. The positive impact on migrant women and their children is demonstrated by findings from the evaluation of SBS' 'No Recourse Fund' (NRF).

The DV Rule was introduced in 2002 to provide migrant women on spousal visas with a route to apply for indefinite leave to remain in circumstances where their relationship breaks down due to domestic violence. In 2012, the DDVC was introduced, giving DV Rule applicants 3 months temporary leave and the right to access limited state benefits and temporary housing whilst their applications for indefinite leave under the DV Rule are considered.

But the DV Rule and the DDVC do not extend to migrant women with non-spousal visas and who are subject to NRPF. This includes women on student or other types of visas such as work permit holders and domestic workers. They remain at risk of re-victimisation by their abuser(s) and/or destitution and exploitation due to increased dependency on friends, acquaintances and strangers or because they are forced to find other means of survival. All of these options carry immense risks and dangers.

Our experience shows that an increasing number of women on non-spousal visas with NRPF are being turned away by multiple statutory and third

sector agencies, including refuges and domestic abuse services. This is one reason why we are seeing an increase in referrals to SBS. We are now nationally recognised for supporting abused migrant women and children with NRPF. Between April 2015 and March 2016, 67% of our users who accessed SBS' NRF (supported by the Tampon Tax) were on non-spousal visas. A snapshot survey conducted by SBS between November 2012 and January 2013, found that 64% (n=154) of 242 women did not qualify for the DDVC and were without a safety net. Similarly, over a one year period, [Women's Aid](#) reported that two thirds of their users (n=101) with NRPF were not eligible for statutory support because they were on non-spousal visas and had NRPF.

"I had no money, though he has opened accounts in my name. He tells me: I sponsor you, you are my maid, you are in this country because of me, I have the power to get you out of the country. He controls me in every way, I can't speak in front of him. He is rich and I am from a poor family."

— (Domestic abuse survivor who accessed SBS' No Recourse Fund)

BETWEEN APRIL 2015 AND MARCH 2016, 67% OF OUR USERS WHO ACCESSED SBS' NRF (SUPPORTED BY THE TAMPON TAX) WERE ON NON-SPOUSAL VISAS.



By introducing the DV Rule and the DDVC, the government recognised that abused migrant women with insecure status require immediate support and protection. What we are seeking is not new or radical. We are merely asking that the same recognition be

extended to all abused migrant women. To do otherwise is to perpetuate a climate of impunity for perpetrators and to institutionalise discrimination towards abused women and children who have insecure immigration status, and to further expose them to significant harm.

CASE STUDY: ANA

Ana met her partner in 2011 in Mozambique and gave birth to her son in 2017. She was disowned by her family for becoming pregnant outside of marriage. Her partner had settled status in the UK and so persuaded Ana to join him. He also promised to regularise their stay in the UK.

Ana arrived in London with their child in September 2018 on a student visa – which expires at the end of 2020 – and began her studies at a university. Their son arrived on a visitor visa, which expired a few months after their arrival. Ana's partner began another relationship and told her that he had no intention of regularising their child's immigration status. As Ana was financially dependent on her partner, she could not afford to challenge or leave him.

Ana's partner became increasingly controlling and was sexually and physically violent towards her. He often assaulted her so severely that he left scars on her face. Ana felt unable to report her partner for a long time because he told her that their son would be taken away because his visa had expired. Ana was unable to turn to her family, who told her that they wanted nothing more to do with her. Eventually, Ana and her son were thrown out of the marital home by her partner. On this occasion, Ana called the police and her partner was arrested and given a caution. However, he later returned to the house and threatened her until she left. Having nowhere to go, Ana turned to her local authority for help with accommodation. She and her son were provided with temporary accommodation, but for less than a month. They were told that after 28 days, their support with accommodation was going to be withdrawn. Ana was advised that her only option was to either give her son to her partner or to return to Mozambique, both of which were unrealistic and extremely risky options for Ana to take.

SBS has been supporting Ana since April 2019. We have assisted her with her complex immigration matters which are taking a considerable length of time to resolve. In the meantime, in a context where her local authority is regularly threatening to withdraw support, we have found ourselves constantly threatening legal action as Ana and her child remain vulnerable and in need.

WHAT EVIDENCE IS THERE THAT THE THREE-MONTH TIME LIMIT FOR THE DDVC IS INADEQUATE?

The evaluation of our NRF shows that around 90% of women on spousal visas are successful in applying for leave to remain under the DV Rule and are able to claim temporary financial

support under the DDVC, within 3 months, albeit with some delays. In contrast, 82% or more women on non-spousal visas require a longer period of support that can range from anywhere between 4 months to 2 years.



60% OF WOMEN ASSISTED BY OUR NO RECOURSE FUND FOR A TIME PERIOD OF BETWEEN THREE WEEKS TO OVER THREE MONTHS SAID THAT THEY REQUIRED A LONGER PERIOD OF SUPPORT, IN ORDER TO RECOVER AND RE-SETTLE FULLY AND TO RESOLVE THEIR COMPLEX IMMIGRATION CASES.

The average is about 6 months.

Our NRF has been set up to meet the costs of emergency accommodation and financial support for abused migrant women with NRPf for up to 3 months. It is not a long-term solution. Our evaluation suggests that providing 3 months of financial support is nowhere near long enough to assist many women on non-spousal visas who have complex immigration problems that inevitably take longer to resolve (see the case

study of Maya below). Many cannot immediately find sound legally aided immigration advice and representation. They often have to wait for weeks before they can see an immigration adviser if they are fortunate enough to find assistance. Others with little or no documentation also face delays in resolving their immigration matters. The deficit in specialist BME services also means that migrant women are being referred to non-specialist services, which creates delays in their access to appropriate advice and support. Many simply did not receive timely advice or the practical help and counselling required to navigate their way through the immigration and welfare systems.

CASE STUDY: MAYA

Maya came to the UK from India in 2010 having been subjected to severe physical and sexual by her alcoholic husband and his brother, that had led her to attempt suicide. She was helped to flee by an elderly man whom she referred to as her 'uncle' and with whom she stayed in the UK. However, shortly after her arrival her 'uncle' began to sexually abuse her; he would

also beat her if she refused his advances.

Over the next few years, Maya was subjected to sexual abuse and exploitation, not only by her 'uncle' but also by other male acquaintances to whom she was forced to turn to for help. They exploited her dependency on them to meet her housing and basic living costs. She was unable to access welfare support as she had not been able to regularise her stay and was subject to NRPF. Eventually Maya contracted HIV as a result of the sexual abuse that she experienced and ended up sleeping on the floor of a friend's house. However, her friend was unkind to Maya and would berate her for not making any financial contributions to the household expenses. Maya was unable to leave because of her financial dependency on her friend.

Maya is unable to return to India as she faces violent reprisals from her own family and her husband's family for having defied and abandoned them. She has also received death threats from her brother-in-law.

Depressed and suicidal, in March 2019, Maya sought help from SBS. By then, she had already obtained poor-quality immigration advice and had applied for asylum a month earlier. She missed her initial Home Office screening interview because the solicitor did not inform her of the date. She had also declined National Asylum Support Service (NASS) accommodation because it was outside London, which made it impossible for her attend her regular medical appointments.

SBS has assisted Maya with her complex immigration matters. We have facilitated her access to sound immigration advice and she has since made a fresh application for asylum. We have helped her with associated costs (such as the £50 fee to obtain a letter of support for her application from her GP). We are also providing Maya with weekly subsistence payments through our NRF until she is able to obtain NASS support. Maya's application for asylum is still pending.

HOW MANY WOMEN CURRENTLY APPLY UNDER THE DV RULE AND DDVC EVERY YEAR AND HOW WOULD THIS CHANGE IF ELIGIBILITY WAS EXTENDED?

There are no definitive figures. The Home Office and frontline organisations report contrasting figures on the percentage of successful applications under the DV Rule. According to a **Freedom of Information** (FOI) request made by the Guardian there are around 1,200 applications under the DV Rule every year, but the same FOI also found a rise in refusal rates from 12% to 30% between 2012 and 2016. This suggests that in 2016 around 840 DV Rule applications for leave were successful.

Elsewhere, evidence suggests that in 2017, the **Home Office granted** around 1000 DDVCs. Government responses to Parliamentary questions show that in 2018, 1210 DDVCs were granted out of which only 575 victims were subsequently **granted leave to remain**.

Based on the above, if the DV Rule and the DDVC were extended to abused migrant women with non-spousal visas, we estimate that overall applications would be in the low thousands, even after taking into account underreporting. (This is based on SBS and Women's Aid estimates that around two thirds of women who use our services are currently not eligible for the DDVC). If we take the 2018 figure of 1210 successful applications for the DDVC, then the numbers of women applying for the DDVC is likely to be around 3630 (1210 X 3 = 3630). According to the Home Office, 6 months of DDVC **costs on average £5146**. A three-fold rise in successful DDVC grants for a 6 month period would therefore lead to a total cost of around £18.6 million (£5146 x 3630 women).

"The social worker said because his father lives here, if I get sent home the child will stay with his father, even though there is a lot of evidence that the father is not fit to take care of a child or even an infant... the [police] officer told me to not take [my child] to collect my things, but to leave him with social services but... I am scared she might hand over my baby to [the father] or just not give me back my baby."

— Ana (case study above)

What is clear is that the associated costs of extending the DV Rule and the DDVC will be greatly offset by savings to statutory and non-statutory services, which currently run into billions of pounds (see below).

WHAT IS THE COST OF NOT PROVIDING ROUTES TO SAFETY FOR ALL MIGRANT VICTIMS OF ABUSE?

Failure to protect all migrant women from abuse has wide-ranging financial and societal consequences; consequences which according to our calculations **far exceed the cost**² of extending eligibility for the DV Rule and the DDVC.

The economic costs of supporting a significant number of abused women with children subject to NRPf are borne by statutory services including local children's, health and education services, the police and the criminal justice system – as well as non-statutory agencies. **Many rely on Section 17 support** under the Children Act 1989. This would not be the case, if they were eligible for the DV Rule and the DDVC.

In 2016/17, London boroughs supported 2881 households with NRPf at a cost of £53.7 million; primarily linked to the discharge of their duties under the Children Act 1989. The average duration of local authority support is under just two and a half years, with 30 per cent of families being made dependent for **1000**



days or longer – often because of **the Home Office's delays** in resolving immigration claims. One of the primary groups referred to local authorities with NRPF is **single mothers subject to domestic abuse**. The majority of households no longer require local authority support when they are granted leave to remain because many go on to find work.

Other long-term cost implications are associated with the escalating violence and abuse that migrant women inevitably face when denied routes to safety (see the case study of Lydia below). These include costs linked to emergency police call-outs, the use of crisis mental health services for adults and children, drug and alcohol dependency services, Multi-Agency Risk Assessment Conferences and domestic homicide reviews. These are likely to run into millions of pounds. As it is, according to the Home Office, in 2016/17 the total cost of domestic abuse to the country was estimated to be around **£66 billion**.

If the amendments we seek are not accepted, migrant women will remain trapped in abuse and this has far-reaching consequences for women and their children across their lifespan. There are severe consequences for women's physical and mental health (see the case study of Maya above). For children, this includes poorer mental and physical health problems, behavioural problems in school, and greater risk of involvement in criminal behaviour. For local authorities, this will also mean an increase in child safeguarding referrals and the number of children in care.

**THE ISTANBUL CONVENTION
REQUIRES STATE PARTIES TO
DESIGN A COMPREHENSIVE
FRAMEWORK FOR THE
PROTECTION OF AND ASSISTANCE
TO ALL VICTIMS OF DOMESTIC
VIOLENCE, EMPHASIZING A NON-
DISCRIMINATORY AND INCLUSIVE
APPROACH TO PROTECTION.**

Curtailing access to life-saving support and the routes by which women can regularise their immigration status also has implications for the government's own international human rights commitments and obligations to combat violence against women and girls. In its **October 2019 report** on the ratification of the Istanbul Convention, the government amended the status of its

progress on Article 4(3) (on non-discrimination) and Article 59 (measures to protect victims whose residence status is dependent on a partner) from 'compliant' to 'under review', as a consequence of its inadequate response to migrant victims of domestic abuse. This is why the government must now use the opportunity provided by the Domestic Abuse Bill to ensure that there is meaningful protection for all women.

CASE STUDY: LYDIA

Lydia came to the UK in 2015 from Uganda, with her British husband and their son. She had one daughter from a previous relationship. Lydia arrived on a tourist visa so that she could see what life was like in the UK before she obtained a spouse visa to join her husband permanently. She had hopes that her daughter, who remained in Uganda, would join her once she was settled in the UK.

In the UK however, her husband's behaviour changed. Lydia was unable to work due to her immigration status and her husband used this to control her; he told her that she had no right to make decisions or to have an opinion, as she did not financially contribute to the household. Lydia was desperate to return to Uganda to visit her daughter, but her husband threatened her; he told her that if she went she would not be able to see her son again. Lydia felt trapped because her husband refused to support her in applying for a spouse visa so that she could regularise her stay. She also needed to apply for a visa for her daughter to join her, but her husband refused to provide the necessary documents and as a result both applications were subsequently rejected.

Lydia was eventually advised to apply for leave to remain in the UK based on her son's British citizenship. This process took two years. During this period, Lydia and her son remained trapped in a violent household, and the abuse escalated. Her husband threatened to throw her out, to have her deported and to have her son taken away from her. She was also regularly raped. Lydia approached her local authority to escape the abuse but she was told that as she had NRPf, she could not obtain assistance. Lydia was forced to return to her husband until she was referred to SBS in September 2019. We have supported Lydia with her immigration and housing matters, which are still ongoing. This has involved supporting Lydia to report the abuse to the police, securing safe alternative accommodation and facilitating her access to mental health support.



WHY DON'T THEY GO HOME?

This view reflects a grave misunderstanding of the specific cultural and social context in which migrant women experience abuse. Due to strong cultural, religious and economic pressures, many women require intensive support and encouragement to disclose abuse in the first instance and to overcome their fear of the implications of doing so. Most seek support from outside bodies only

as a last resort when all attempts to reconcile with their abusive husbands/partners and their families have failed.

We have found that migrant women will leave the UK if it is safe for them to do so. But we also support women who have attempted to return to their families abroad only to be rejected or abandoned or worse. It is dangerous to assume that 'family and friends' are always a protective factor (rather than posing additional risks themselves). Many women have justified fears of violent reprisals – from their own families and communities and/or the families of the perpetrator(s). They often receive explicit death threats and warnings that they will not be safe if they return to their country of origin.

Other migrant women have legitimate claims to settlement in the UK under the right to family life, where for example they have British-born children, who are in education and have never travelled to and have no connection to their mother's country of origin.

SBS has a 100% track record of assisting women with applications under the DV Rule or other immigration grounds because we only support cases where we are confident that a woman's application meets the relevant criteria. In any event, the immigration system operates a rigorous process to determine whether or not a migrant person is subject to abuse and can or cannot safely return to his/her country of origin. There is simply no credible evidence to support the claim that migrant women are manipulating the immigration system.

Finally, it should be noted that the government introduced the DV Rule and the DDVC as protective measures because the alternative was too great a human, economic and social cost to pay. The same logic must apply to other abused migrant women with insecure status.

THE HOME OFFICE IS CURRENTLY UNDERTAKING AN INTERNAL REVIEW ON NRPF WITH A VIEW TO FINDING A SOLUTION, SO WHAT IS THE PROBLEM?

We do not think that any temporary solution to NRPF is sustainable. As the leading organisation working on NRPF projects funded by the Tampon Tax, our evaluation findings show that abused migrant women want to regularise their stay and need the certainty of long-term support and access to sound legal advice and representation whilst they go through

“She works and he takes all her money. After an attack when she was unconscious, an ambulance was called but she was scared to admit domestic violence. Another attack led to a two-inch scar and she had nosebleeds after another attack. She can't go back to the country of origin as she married him against her family's wishes and her father has threatened to kill her because of shame on the family.”

— (Domestic abuse advocate for a survivor with insecure immigration status)

that process, however long it takes. Women's safety and protection should not depend on short-term schemes including those funded by the Tampon Tax, which are subject to political and economic factors that are constantly changing.

We are aware that the Home Office is currently undertaking an internal review into the problem of NRPF. We have also heard that the National Referral Mechanism (NRM) for trafficked women or a system like it may be suggested for abused migrant with NRPF. This concerns us. Organisations such as Kalayaan, the Human Trafficking Foundation and the Anti-Trafficking Labour Exploitation Unit who support our demand to abolish NRPF for abused women, including domestic workers, have long been highly critical of the NRM. They point to serious ongoing problems with the NRM system including poor decision-making and a lack of awareness of gender-related forms of harm; of transparency; of procedural fairness; of a formal review process to challenge negative trafficking decisions and of proper support, advice and care plans for survivors of abuse. This is why we propose extending the DV Rule to all abused migrant women because it has a much better track record as a system of support and protection. For these reasons, we remain troubled by any solutions that are a part of or seek to parallel the NRM system. We question the efficacy of the system as a model of 'good practice'. We urge the Home Office to make their internal review public and transparent; to set out its terms of reference and objectives and to properly engage with us to ascertain what is good practice, based on our expertise and the evaluation findings of our NRPF projects.

WHY ARE YOU CALLING FOR A COMPREHENSIVE STRATEGY ON VIOLENCE AGAINST MIGRANT WOMEN AND GIRLS?

Migrant women face considerably more cultural and institutional barriers to protection than other abused women in society. They lack access to adequate legal advice and representation and face heightened forms of abuse, unsafe systems of reporting, isolation, dispersal and even detention (see the case study of Sita below). Women's rights to protection from abuse are also seriously undermined by the government's 'hostile environment' policy and its impact across the spectrum of welfare and public services.

This is why we are calling on the government to also introduce a single framework for action to address all the barriers that migrant victims of domestic abuse encounter. All abused

"A refuge rang us and asked us a question about NRPF. She had a client and wanted to know if she had a duty to report to the Home Office that [the client] had insecure status (she was a potential overstayer). I had to ask her to look at what her role is – was it to safeguard or to act as a Home Office agent?"

— (SBS advocate)

migrant women must have equal access to protection, irrespective of their immigration status.

Please see our [first briefing paper](#) for an outline of our key asks for the strategy.

CASE STUDY: SITA

Sita came to the UK following her marriage to her husband in India. She had married against the wishes of both their families. The couple arrived on a six month visitor visa and their second child was born in the UK. After their arrival, Sita's husband began drinking excessively and he became aggressive, controlling and violent. He often threatened to kill Sita, and on one occasion attempted to strangle her. Sita was afraid to report the abuse to the police because of her insecure immigration status. She was also unable to return to India because her family had shunned and threatened her for defying their wishes. Sita's husband applied for asylum in the UK, with Sita as his dependent. The application was refused in 2010 and Sita did not know if any further applications were made by her husband, who had retained their documents and was in control of their immigration matters.

In 2014, Sita was subjected to a violent assault by her husband. He threw a table at her, broke their furniture and threatened her and the children with a knife. He left the house but threatened to return in a few days to collect money from her.

Desperate for assistance, Sita managed to find her way to SBS and was helped in making an initial report to the police. The police asked her to attend the local police station to provide a statement, but once there she was questioned about her immigration status, causing her to panic. SBS had to intervene to explain to the police that she would be seeking legal advice on her immigration matter and to regularise her stay. We also questioned the police's response and insisted that their priority was to safeguard Sita and her children as victims of domestic violence.

END NOTES

1 Between July and September 2019, SBS legally challenged social services on 18 occasions for refusing to provide support under Section 17 to NRPF women with children in the first instance.

2 The total current cost of the DDVC is estimated as £2.6million: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/772180/horri07.pdf

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