



The Domestic Abuse Bill and Migrant Women

House of Lords

Briefing Paper by Southall Black Sisters

The Domestic Abuse Bill, now before the House of Lords, has been hailed as a ‘landmark Bill’ and a ‘once-in-a-generation opportunity’ to provide safety and protection for all victims of domestic abuse. As things stand however, the Bill excludes abused migrant women with insecure immigration status subject to the [No Recourse to Public Funds \(NRPF\) condition](#). The Government has refused to make any changes despite concerns raised in June 2019 by the [Joint Committee on the Draft Domestic Abuse Bill](#), which “felt very strongly that it is currently...a missed opportunity to address the needs of migrant women who have no recourse to public funds”. This means that migrant women (and in many cases, their children) who face abuse and violence in the UK continue to have no access to the welfare safety net, including life-saving refuge spaces and support services.

Proposed amendments to the Bill

To address the significant gap in protection, Southall Black Sisters (SBS) is calling for the following amendments to the Bill:

- 1. Extension of eligibility for the Domestic Violence Rule (DV Rule) and the Destitution Domestic Violence Concession (DDVC) to all migrant victims of domestic abuse.**
- 2. Extension of the time period for the DDVC from three to at least six months.**

Why are these changes needed?

“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 speaking of her frontline experience)

Without access to a safety net, front line organisations like ours are limited in what we can do to help desperate women and children at serious risk of abuse. We invite you to listen to these [powerful accounts from migrant survivors](#) describing their experiences of violence, destitution and fear. Immigration rules, including the NRPF condition, trap many women in abuse that often escalates, creating greater risks and vulnerability. It is an experience that will be appreciated by many who have felt similarly suffocated by the lockdown measures introduced to deal with the current COVID-19 crisis. The difference is that for these women, their position of entrapment is not temporary, because it is facilitated by the Government's 'hostile' or 'compliant environment' immigration agenda, that includes the imposition of the NRPF condition. The NRPF condition excludes migrants with limited leave to enter or remain from accessing the welfare safety net, including Universal Credit and social housing. Its cruelty has been laid bare during the pandemic by the many families who have lost employment and fallen into destitution. This was devastatingly highlighted by the [recent death of Mercy Baguma](#), who died lying next to her infant boy. It would appear that Mercy had been barred from working and accessing public funds due to her insecure immigration status in the time before her death. The inhuman and degrading consequences of the NRPF condition were also highlighted by a [High Court case](#) in May 2020 in which it was ruled that the Government has an obligation to ensure the NRPF condition is not applied, or is lifted, where a person is at imminent risk of suffering inhuman or degrading treatment (contrary to Article 3 of the European Convention of Human Rights) by being prohibited from accessing public funds. For those experiencing abuse, the NRPF condition and other immigration policies leave women with an impossible choice between further violence, or the prospect of destitution, separation from their children, detention and deportation.

Exerting absolute control

"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)

Not only are migrant women prevented from reporting their abuse by these policies, but they also create a climate of impunity for perpetrators. Perpetrators regularly weaponise women's lack of secure immigration status and economic independence to exert absolute control and to keep them in a state of fear. They regularly threaten women by stating that any report of abuse to the authorities will lead to separation from their children, destitution and ultimately deportation. Many also deliberately jeopardise women's immigration status, for example by supplying them with false information, withholding essential documentation and interfering with their application to regularise their stay. This results in many women becoming 'overstayers' and undocumented as a result of abuse. Detailed case studies highlighting these and other issues can be found in our Domestic Abuse Bill [Briefing Paper 2](#).

Denying access to support and protection

Even if survivors manage to exit abuse, due to their insecure (non-spousal) visa status and NRPF, they find it incredibly difficult to secure refuge accommodation because refuges inevitably need to know how their housing and subsistence costs will be met to cover their stay. In England in 2019/20, almost [4 in 5 migrant women were turned away](#) from refuges due to the NRPF condition. Nor can migrant women with NRPF typically turn to local authorities for support unless children are involved. Even then it is a constant battle to obtain assistance because of the acute lack of resources and considerable inconsistency in local authority responses to safeguarding vulnerable migrant women and children.

The lack of safe alternative routes to protection means that many women are left to turn to friends, acquaintances and strangers for their survival - options that increase their chances of re-victimisation. Many women we support seek help from their local religious organisations to provide them with daily meals or a temporary place to stay. These are not always safe spaces and many do not have the expertise and safeguarding structures to provide specialist support.

SBS and other BME specialist services have therefore long had to resort to using our own emergency funds to put migrant women in temporary B&B accommodation to prevent their homelessness, destitution and exploitation. We also provide food, counselling, legal and other services that they desperately need to remain safe and secure. We operate a 'No Recourse Fund', supported by the Tampon Tax, the Mayor's Office for Policing and Crime (MOPAC) and London Councils, but limited resources mean that we cannot reach more than a couple of hundred women a year. Compare this to our estimates of the number of migrant women who require support annually (3-4,000 per year). Far too many women and children therefore remain unprotected. Our Tampon Tax funding is also only guaranteed until March 2021, which means that the overwhelming majority of abused migrant women will remain unprotected.

A license to abuse?

Denying protection and safety to abused migrant women not only has severe consequences for women but it also means that abusers go unpunished. The NRPF condition (combined with problematic practice of data-sharing between the police and the Home Office) allows those who abuse to evade detection by the authorities. Abusers are given free rein to harm other women and children. For example, many of the women we support have been harmed by men (and family members) who have committed violence against previous partners/spouses.

This situation undermines the Government's own commitments to prosecute offences of violence against women; and it excludes migrant women from many of the protective measures introduced in the Bill to improve protection, prevention and rates of prosecution. The majority of migrant women remain fearful of being detained and deported and so will not seek help from the authorities, let alone participate in the civil or criminal justice process to hold abusers to account for their behaviour.

What is the Government's position?

Following the publication of the Home Office's [Migrant Victims of Domestic Abuse Review Findings](#), ('Review') the Minister for Safeguarding, Victoria Atkins, rejected our proposed amendments to the Domestic Abuse Bill and instead announced a £1.5million pilot project to gauge the needs of migrant women and to cover the cost of support for migrant women with NRPF in refuge accommodation. She stated that this pilot will be used *"to assess better the level of need for that group of victims and to inform spending review decisions on longer-term funding."* We submit that even as an interim measure, the proposed pilot fund is wholly inappropriate and inadequate as a solution since it will not protect all migrant women subject to abuse. See [here](#) for detailed reasons as to why the pilot scheme is not a viable alternative to the need to enshrine statutory protection for migrant women in the Bill.

Our key concerns with the pilot project are:

- The failure to appreciate the urgency and the seriousness of the risk of abuse and destitution that abused migrant women on non-spousal visas currently face.
- The failure to meaningfully engage with the considerable evidence that was submitted by key specialist organisations during the Review process; resulting in significant inaccuracies and poor and misleading analysis and conclusions.
- The use of the deeply flawed Review findings to justify the decision not to accept the recommendations of the Joint Committee to extend eligibility for the concessions available under the DV Rule and the Destitution and DDVC.
- Even as an interim measure, the £1.5 million allocated to the pilot fund is nowhere near sufficient to address what is an urgent and mounting crisis.

A detailed response to the Review can be found [here](#).

The Government's main reason for not extending the DV Rule and the DDVC to all migrant women is to ensure that routes to the welfare safety net and settlement are only available to those women (such as those on spousal visas) who have a *'reasonable expectation of remaining in the UK on a long-term basis'*. We question the logic of this position: As it is, the DV Rule and DDVC do not extend to all women who also have a legitimate expectation of settlement in the UK. It excludes many survivors who **are** here under the immigration rules

as partners **and** with the same ‘expectation’ that they will become settled as the survivors who currently come within the scope of the DV Rule and the DDVC. There are also many women on other types of visas who for various reasons also have expectations of settlement but are deprived of routes to settlement by their abusers. Others have real and [justified fears of returning to their country of origin](#) where they may be at greater risk from their abuser and/or wider family in the form of reprisals. Yet others include survivors who have deliberately had documents withheld and applications tarnished by abusers’ so that they become ‘undocumented’ or ‘overstayers’¹. There is no recognition given to the fact that often women are on route to settlement but find themselves at the mercy of their abusers who through abuse and deception force them into positions of irregularity. This includes women who may have previously been financially independent prior to coming to the UK but who become destitute in the course of an abusive relationship.

We are greatly disappointed by the failure of the Government to take proper account of these considerations, and the compelling reasons why many migrant women who have legitimate expectations of settlement are derailed by their experiences of abuse.

An untenable position

In any event, in our view, the Government’s position is wholly at odds with its own legal obligations under domestic and international human rights law, such as the ECHR Article 2 (right to life), Article 3 (right to be free from inhuman/degrading treatment), and Article 8 (right to private and family life) especially when taken together with Article 14 (non-discrimination in the enjoyment of Convention rights). It also potentially contravenes the [Istanbul Convention](#) which contains key state obligations (Articles, 4, 5, 7 and 59) to ensure there is effective protection from and prevention of abuse, irrespective of immigration status. The position is also at odds with strategies and policies to combat violence against women and girls, including its own [draft statutory guidance](#), that recognises insecure immigration status of women as a significant risk factor.

There is a cruel irony in the Government’s rejection of our amendments to protect abused migrant women on the basis of ‘insufficient evidence’ when the very Government policies that create the conditions of entrapment for such women; such as the NRPF condition, and data-sharing between the police and the Home Office, were themselves introduced without any *“specific evidence base to support the effectiveness of these measures”*. This disturbing conclusion comes from a [report by the National Audit Office](#) (NAO), the UK’s independent public spending watchdog.

We are effectively tangled in an insidious web whereby the Government itself acknowledges

¹ <https://stepupmigrantwomenuk.files.wordpress.com/2019/05/the-right-to-be-believed-full-version-updated.pdf>

that the NRPF policy is a tangible barrier to migrant women escaping abuse, and yet persists in retaining the NRPF condition because it needs 'more evidence' of its impact of domestic abuse on migrant victims. Yet, as the NAO has concluded, measures such as NRPF were introduced without any specific evidence base as to their effectiveness and without any assessment as to whether they fulfil the stated Government objective of: *"...removing the incentives which it believes draws people to the UK 'illegally', encouraging voluntary departures and people to leave before their right to remain in the UK has expired."*²

On the basis of the substantial concerns outlined above, we reject the Government's position. It is based on a Review that has lacked meaningful engagement with the considerable evidence submitted by key specialist organisations during the process; resulting in inaccuracies, as well as poor and misleading analysis and conclusions. We reassert our position that the Domestic Abuse Bill provides the Government with a significant opportunity to address the widening gaps in protection for migrant women with insecure immigration status and NRPF, through legislative amendments to enshrine their right to long term-safety and security. Upholding the principles of equality of access to protection irrespective of background is vital if we are to avoid a discriminatory two-tier system of support that leaves significant numbers of women behind.

Southall Black Sisters

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² <https://www.nao.org.uk/wp-content/uploads/2020/06/Immigration-enforcement.pdf>