

## THE DOMESTIC ABUSE BILL: A FAIR SYSTEM URGENTLY NEEDED FOR ALL

### Report Stage briefing

Domestic abuse is a devastating and widespread problem that impacts roughly two million people a year in the UK, the majority of whom are women. We welcome the commitment of this government to tackling the issue, however the Domestic Abuse Bill (the Bill) does not address the significant unfairness inherent in the current system, which is almost totally inaccessible by society's most marginalised and isolated victims, particularly migrant women.

Amendments tabled at Committee Stage, supported by the Step Up Migrant Women Coalition (led by 'by and for' Black and Minority Ethnic (BME) organisations and including organisations from across the women's and human rights sector), would have addressed the barriers inherent in the current system which not only prevent survivors from accessing protection, but that serve to trap them in situations of abuse. Unfortunately, those amendments were not accepted by the Government, and we now urge members to:

- **Attend Report Stage debate and speak in support of migrant women** being able to access protection fairly
- **Vote in support of amendments tabled that would achieve fair and equal protection for migrant women:**
  - NC22 – Recourse to public funds for domestic abuse survivors
  - NC25 – Effective protection and support for all victims of domestic abuse
  - NC26 – Victims of domestic abuse: leave to remain
  - NC27 – Victims of domestic abuse: data sharing for immigration purposes

### **Background**

In its Draft Statutory Guidance to the Bill<sup>1</sup> published 1 July 2020, the Government clearly states that:

- Perpetrator tactics include: **Manipulating the victim's immigration status as a form of coercive control**, including withholding ID, passports and visas from victims, lying about their status, purposely letting a victim's visa lapse or failing to act on sponsorship duties for immigration purposes"
- Coercive control includes: **Threatening precarious immigration status against the victim**, withholding documents, and giving false information to a victim about their visa or visa application
- Examples of economic abuse include: **Interfering with or preventing a victim from regularising their immigration status so that they are economically dependent on the perpetrator**
- It is possible that victims may also be reluctant to report abuse due to the fear of information sharing by the police and other statutory services with the Home Office for the purpose of immigration control

While it is welcome that the Government recognises that the immigration system itself is used by perpetrators to maintain control of their victims and prevent them from escaping abuse, it is all the more perplexing that there remains not a single mention of migrant women in the Bill, and so far the Government

<sup>1</sup>[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/896640/Draft\\_statutory\\_guidance\\_July\\_2020.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/896640/Draft_statutory_guidance_July_2020.pdf)

has not made any changes to immigration policy that would empower migrant victims and enable them to escape to safety.

After many months of delays, the Government has finally published its review into measures to protect migrant women. But the content and outcomes of the review are deeply disappointing. The report has either dismissed or misunderstood important evidence on the needs of migrant women submitted by SBS in relation to the evaluation findings of their NRPF project funded by the Tampon Tax. Instead the Government has doubled-down on its proposal for yet another pilot project. This is a missed opportunity to place the protection of migrant women on a statutory footing and to ensure that the Bill is compliant with the Istanbul Convention (which the Government intends to ratify on the basis of this Bill).

In the Bill's Second Reading the Government announced a £1.5m pilot fund to cover costs of accommodation for migrant women. Southall Black Sisters have prepared a detailed briefing<sup>2</sup> outlining why this latest announcement, even as an interim measure, is an untenable and inappropriate solution to the urgent need to protect all migrant women subject to abuse.

## **Key amendments:**

- **NC22 - Recourse to public funds for domestic abuse survivors**

**Why this is needed:** Women without secure immigration status find it virtually impossible to access refuge and other welfare support in order to escape violence and abuse. Without access to public funds and housing support, they are routinely denied access to refuge spaces (only 5.8% of refuge beds are available for women without recourse to public funds), safe accommodation and welfare. They are therefore faced with the impossible decision of becoming destitute/homeless or returning to the perpetrator.

**How it would work:** The proposed amendment ensures that exclusion from public funds, support or assistance does not apply to survivors of domestic abuse; ensures that a victim of domestic abuse has the right to rent; prohibits introduction or maintenance of a no recourse to public funds condition on leave to remain given to a survivor of domestic abuse. The amendment requires the Secretary of State to commission a review into the operation of these provisions within 12 months of the Act being passed and lay before Parliament a report setting out the findings.

- **NC25 - Effective protection and support for all victims of domestic abuse**

**Why this is needed:** The Bill would currently fail to meet the Government's international and domestic human rights obligations, including the requirements of the Istanbul Convention, that State measures to protect the rights of victims shall be secured without discrimination on any grounds. The Bill does nothing to change the reality that migrant victims are not able to access the same protection as others. In fact the immigration system works to trap victims in abusive relationships with no access to public funds, no access to legal aid, afraid to report for fear of facing detention or deportation as a result, and at the mercy of perpetrators who both orchestrate and then wield insecure immigration status over them.

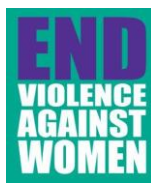
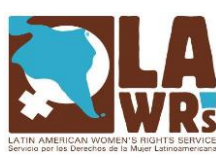
**How it would work:** The proposed amendment very simply requires the Secretary of State to ensure that that all survivors can access protection and support equally, incorporating a guiding principle of the Istanbul Convention into the UK legislation intended to ratify it. This would confront the existing hierarchy of safety that exists for migrant and BME women and strengthen the legislative framework that requires public authorities to effectively respond to *all victims* of domestic abuse.

- **NC26 - Victims of domestic abuse: leave to remain**

**Why this is needed:** The existing Domestic Violence (DV) Rule works well for those who are able to access it (those on certain spousal and partner visas), ensuring that they are able to regularise their immigration status independent of their perpetrator and can access public funds for a limited time while the

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<sup>2</sup> <https://southallblacksisters.org.uk/news/sbs-reasserts-demand-for-protection-for-migrant-women-in-the-domestic-abuse-bill/>



application is considered. This gives migrant women a literal lifeline and escape route out of abuse, removing the power from abusers who threaten detention, deportation, destitution, and separation from children. However the current rule excludes not only survivors who should already, by the Government's definition, be included, but also others who for one reason or another are dependent on their perpetrator for their status or have other expectations of staying in the country (for example having settled or British children, or being unable to return to their country of origin due to risk of further harm on return). Extension of the existing DV Rule provides a straightforward and simple solution to the complex and challenging situation many migrant survivors of abuse find themselves in.

The number of additional applications likely to be made per year under an extended eligibility criteria is estimated (on the basis of data from Southall Black Sisters<sup>3</sup> and Women's Aid) to be in the low thousands, but for those individuals the impact would be immeasurable.

**How it would work:** The proposed amendment requires the Secretary of State to make provision in the immigration rules for the granting of indefinite leave to remain to migrant survivors of domestic abuse; and empowers providers of accommodation, education, employment, financial assistance, healthcare and any services intended for survivors of domestic abuse to provide those services to a survivor who is eligible to make an application. Applications under the existing DV Rule are reviewed by a Home Office caseworker on the basis of documentary evidence. In 2016, 70% of applications were successful.

- **NC27 - Victims of domestic abuse: data-sharing for immigration purposes**

**Why this is needed:** Immigration enforcement has been prioritised over treating victims as victims and providing health, safety and security to survivors of domestic abuse. Invasive data-sharing agreements between public services and Immigration Enforcement mean migrant women are often too scared to report abuse and are prevented from accessing the services they need to escape, as they fear and face the real risk of detention or deportation. In one account, a survivor undergoing physical and psychological abuse who reported to the police on three occasions, was told that she was an 'illegal' and that she should refrain from calling again; in another case, the police arrested a survivor as she reported in her local police station and was detained and questioned by immigration officials. This situation is well known by perpetrators who, due to the lack of safe reporting mechanisms, continue to weaponise women's insecure immigration status as a form of coercive control. To illustrate this, information from LAWRS, shows that 62% of migrant women had specifically been threatened in this manner by their abusers.

**How it would work:** The proposed amendment requires the Secretary of State to make arrangements to ensure that consent must be sought from survivors of domestic abuse before personal data that is given or used for the purpose of their seeking or receiving support and assistance, is used for immigration control purposes; and excludes the application of the immigration exemption in the Data Protection Act 2018 in such cases.

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<sup>3</sup> <https://southallblacksisters.org.uk/wp-content/uploads/2020/03/DA-Bill-Briefing-Paper-2.pdf>