

### Domestic Abuse Bill 2019-2021 – Second Reading, House of Lords

#### About Refugee Council and survivors of abuse in the asylum system

The Refugee Council is one of the leading charities in the UK working with refugees and people seeking asylum. As a human rights charity, independent of government, we work to ensure that refugees are given the protection they need, that they are treated with respect and understanding, and that they have the same rights, opportunities and responsibilities as other members of our society.

Refugee Council has worked for many years to improve the outcomes for women seeking asylum who have experienced, or are at risk of, violence and abuse after arriving in the UK. In July 2018, the Refugee Council and the Asylum Support Appeals Project published a report 'Women seeking asylum: Safe from violence in the UK'<sup>1</sup>, looking at how the UK government responds to women facing domestic violence and other forms of gender-based violence after arrival in the UK and during their time in the asylum system.

Following the publication of that research, the Home Office revised their guidance on responding to reports of domestic abuse from people seeking asylum. The revised guidance includes a number of new safeguards, containing a new funding mechanism enabling people seeking asylum to access specialist refuge accommodation and support services.

Crucially, though, this guidance does not apply to women who have exited the asylum support system and are Appeal Rights Exhausted.

In addition, the Domestic Abuse Bill, in its current form, fails to tackle specific issues around reporting gender-based violence and ensuring survivors are supported in their recovery, as set out below.

#### Executive summary and areas for amendment

1. Despite repeated assurances from the Home Office that the policy intention within the Domestic Abuse Bill is to treat all those reporting domestic abuse as 'survivors first', current provisions mean that many migrant women are not able to access life-saving accommodation and support services when they need them.

The Refugee Council has for many years advocated for better support for survivors of domestic abuse who are in the asylum system. In 2019, the Home Office revised their guidance on responding to reports of domestic abuse from people seeking asylum.

The revised guidance includes a number of new safeguards including a new funding mechanism enabling people seeking asylum to access specialist refuge accommodation and support services.

<sup>1</sup> [http://www.refugeecouncil.org.uk/wp-content/uploads/2019/03/Safe\\_from\\_violence\\_in\\_the\\_UK\\_ASAP-RC\\_report.pdf](http://www.refugeecouncil.org.uk/wp-content/uploads/2019/03/Safe_from_violence_in_the_UK_ASAP-RC_report.pdf)

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However, women who become Appeal Rights Exhausted after coming through the UK asylum system, are not able to access domestic violence services, and they need a route to do so. Equally, other migrant survivors who are not in the UK on a spousal visa need a route to access these services.

The bill should make provision to ensure all victims of domestic abuse can access public funds and vital, often life-saving support and routes to safety; and that no survivor, whatever her immigration status, is treated as being in breach of immigration laws or the immigration rules for accessing those funds.

In the House of Commons, Refugee Council supported NC22 at Report Stage, which allowed all survivors of domestic abuse to access public funds should they require them.

At the same stage, we also supported NC23, which put a statutory duty on local authorities and other relevant bodies to commission specialist services for survivors, including those with protected characteristics, which includes many migrant survivors.

2. In addition to the above, the bill should make provision to ensure all victims of domestic abuse are given a route to regularise their status, to support them to rebuild their lives and give them the opportunity to engage with authorities and support services.

In the House of Commons, we supported NC26 at Report Stage which made provision for the granting of indefinite leave to remain to migrant survivors of domestic abuse and limited leave to remain to a survivor who is eligible to make an application for indefinite leave to remain.

3. Women with insecure immigration status fear reporting domestic abuse because they believe this could affect their status or asylum claim, or they could be subject to punitive measures, rather than being offered protection.

In the House of Commons we supported NC27 at Report Stage that would provide safe reporting mechanisms and an end to data-sharing for immigration enforcement purposes between vital public services and the Home Office. This would ensure all survivors can be more willing to report abuse to police and other services, rather than staying in abusive and dangerous situations because of a fear of immigration control.

4. To fully ensure all migrant survivors are protected and supported within the provisions of the bill, a principle of non-discrimination that mirrors the language of Article 4(3) of the Istanbul Convention should be part of the bill. **To this end, in the House of Commons we supported NC25 at Report Stage.**

### **Women seeking asylum who become appeal rights exhausted (ARE)**

The Government states that all victims of domestic abuse should be treated first and foremost as survivors, and all the measures in the Bill apply equally to all survivors of domestic abuse in England and Wales, irrespective of their immigration status.

Currently the bill fails to address the needs of women who are forced to exit the asylum support system as a result of having their asylum claim refused and becoming appeal rights exhausted (ARE), with no recourse to asylum support or any other public financial support.

Women who become appeal rights exhausted are extremely vulnerable to homelessness and destitution, which in turn can expose them to an increased risk of abuse and exploitation. There is a particular risk of sexual exploitation when women have no alternative but to rely on friends, acquaintances, or strangers for accommodation.

If government action to tackle domestic abuse is truly to treat people as victims first, regardless of their immigration status, then support for women who are appeal rights exhausted must be brought forward.

This support must take into account the particular needs of this cohort of migrant women, and specialist services must be available across the UK.

To do this, provision must be made to allow migrant survivors of domestic abuse recourse to public funds, through which they can then access the support they need. Migrant survivors of domestic abuse also need space and time to regularise their status, at point at which they have escaped an abusive situation.

To date, the Government response to the point that migrant survivors cannot access services, has been to announce the Support for Migrant Victims (SMV) pilot, a £1.5 million fund, which will invite bids for grants to provide refuge and other safe accommodation for those migrant survivors who cannot currently access these services. The results of this pilot would then be used to inform future policy, including gauging the need for these services.

Although the pilot was first announced many months ago, the tender has only recently been published (see <https://bidstats.uk/tenders/2020/W51/740950325>), with a delivery target of March 2021-March 2022. Although it is positive that this tender is now live, we still don't know the full parameters of the pilot, and how it will operate.

These unnecessary delays only mean that more time goes by without survivors being able to access life-saving accommodation.

This approach is unnecessary and wrong-headed. For many years, organisations working with migrant survivors, including Refugee Council, have provided the Home Office with evidence that many survivors are excluded when they need support. A pilot will not tell Government more than can be learned from the decades of work that specialist women's services working with migrants have undertaken, with accompanying evidence.

In addition, this is a policy area where need or demand should not be established before the law is changed. Indeed, if everyone is to be treated as survivors first, then Government should make the law so that migrants can access services as they need, even if there is no need in the present day. Making the law inclusive ensures that no woman will be abandoned in the future.

### **Barriers to disclosure of abuse for women seeking asylum**

Women seeking asylum often fear reporting abuse because they believe that it could affect their immigration status or asylum claim.

They are often unaware of how the criminal justice system functions in the UK and are suspicious of state bodies and authority figures, due to their experiences in the countries from which they have fled. Perpetrators use these fears as a tool to isolate and control women.

The bill should create a safe reporting mechanisms and an end to data-sharing for immigration enforcement purposes between vital public services and the Home Office.

This would ensure that women whose asylum claims have been refused can seek help without the overhanging threat of immigration enforcement.

### **Ratification of the Istanbul Convention**

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The measures contained in the bill are not compliant with Article 3(4) of the Istanbul Convention which states that ‘provisions of this Convention by the Parties, in particular measures to protect the rights of victims, shall be secured without discrimination on any ground such as [...] national or social origin {...or...} migrant or refugee status’.

As such, the bill leaves women with insecure immigration status, including asylum-seeking women and those who are appeal rights exhausted without the protection required by the Convention.

The government should take the opportunity presented by the bill to put in domestic legislation to ensure full compliance with Article 3(4) of the Istanbul Convention, to provide greater protection for women with insecure immigration status, including asylum-seeking women and those who are appeal rights exhausted.

## **Conclusion**

Organisations working with migrants survivors of domestic abuse have shown for many years how the current system excludes these women from life-saving services, and how its interaction with immigration enforcement inevitably leads to survivors avoiding asking for support.

The Domestic Abuse Bill is an historic opportunity to ensure that Britain’s domestic abuse services are available to all survivors, which is also Government’s stated intention.

In December 2019, the government stood on a manifesto pledging to ‘support all victims of domestic abuse’ so it is legitimate to support changes to the bill that will make that a reality.

Without the changes outlined in this briefing, migrant survivors will continue to suffer violence and abuse without being able to access support from the state. Peers should press the Government to recognise this, and ensure that all survivors are treated as survivors first.

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