



Working towards securing greater protection, safety and support for migrant women who have experienced gender-based violence who have no recourse to public funds

02/11/21

Safety4Sisters submission to the Nationality and Borders Public Bill Committee:

Safety4Sisters was set up in 2011 and is a small anti racist, feminist charity working to both support and raise the voices of migrant women experiencing domestic abuse in the North West. Over the past 3 years S4S have advised and supported over 250 women who were experiencing domestic abuse and who had insecure immigration status, and where under the “no recourse to public fund” condition many of whom went on to claim asylum or who were in the asylum system already.

Introduction

Safety4Sisters makes this submission to highlight the harm that many of the proposals within the Nationality and Borders Bill would cause to women subject to gender-based violence. As a specialist Black led women’s organisation, we reject any claims made that its proposals would assist vulnerable women and girls. Many of the proposals will seriously undermine the government’s commitments to prevent and address violence against women and girls (VAWG), specifically the proposals such as introducing additional thresholds that survivors must meet in order to gain refugee status, and punishing women who are unable to disclose their history of violence and abuse immediately.

Safety4Sisters are aware that there are important national conversations happening about how to prevent and address gender-based violence in our society, but we believe that the Nationality and Borders Bill in its current form will harm survivors and lead to greater exploitation and victimisation of women and we ask Bill Committee members to reconsider the proposals outlined below.

Sadly it took the murders of Sabina Nessa and Sarah Everard and many others for the media, the Government, the police and civil society to start taking seriously the need to address the scale of abuse and violence against women and girls. The Government has said it wants to reassure women and girls and the specialist women’s organisations like ours that support them, that this issue is being taken seriously we feel, as a black led specialist womens organisation that these commitments are gravely undermined by proposals in the Nationality and Borders Bill.

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If the Government is to fulfil its promises made in the VAWG strategy to continue 'to work with violence against women and girls sector specialists' and 'continually improve and learn from [our] experiences, data and insight,'¹ we ask that it take heed of Safety4Sisters concerns about this Bill.

The Government is still unable to meet international standards in responding to VAWG by ratifying the Istanbul Convention nine years after signing, largely due to its treatment of migrant survivors in the UK, as highlighted by the Step Up Migrant Women campaign.²

Safety4Sisters believes that the Government's record on addressing VAWG will be eroded even further should it proceed with the **Nationality and Borders Public Bill in its current form at a time when women are desperate for a change in the politics of exclusion and move towards a politics of solidarity, compassion and human rights**. We are convinced by the experiences of the women we are witnessed to, that its proposals will create further difficulties for women and girls subject to abuse, and our organizationa and other organisations supporting them in the UK.

Whilst the Equality Impact Assessment accompanying the Bill alleged that proposals could 'advance the equality of opportunity for 'a cohort of females,'³ we set out some

¹ See page 83 of HM Government (2021) Tackling Violence against Women and Girls:

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1005630/Tackling_Violence_Against_Women_and_Girls_Strategy-July_2021-FINAL.pdf

² The Council of Europe's convention on preventing and combating violence against women and girls is internationally regarded as a the "gold standard" for responding to violence against women and girls (VAWG), and the biggest hurdle to ratification, is the absence of any provisions for migrant survivors that would comply with Articles 4(3) and 59 of the Convention (these articles outline obligations to ensure that survivors have access to protection and support without discrimination regardless of immigration or refugee status)

³ New Plan for Immigration Overarching Equality Impact Assessment of polices being delivered through the Nationality and Borders Bill:

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1018188/Nationality_and_Borders_Bill_-_EIA.pdf

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key ways in which they would cause harm to women and girls and increase the risk of gender-based violence.

Four ways the Nationality and Borders Bill will harm women and girls:

- 1. There will further barriers for survivors of gender based violence in trying to prove well founded fear.**

Clause 30 introduces a restricted definition of 'particular social group' which Safety4Sisters believes will harm women subject to gender-based violence. The proposed introduction of **two** criteria for the applicant to show that they are a member of a "particular social group", instead of just one, coupled with the change in the "well-founded fear" test, will mean a further barrier to justice for women in particular.

Currently Safety4Sisters witnesses so many women struggling to prove the extent of the violence and abuse they have suffered and being wrongly refused asylum and we believe these additional hurdles will cause further miscarriages of justice. Safety4Sisters are concerned that this will have an enormous impact on the women we support because this ground in the Refugee Convention is frequently relied upon by survivors in order to obtain refugee status.

- 2. The creation of a two-tier system:**

It is wrong to differentiate between refugees based on their mode of arrival or when they apply for asylum.

We object to Clause 10 of the Bill. As a specialist VAWG organisation, we are incredibly concerned by plans to exclude women from a path to settlement and public funds because of how they arrived in the UK and how quickly they were able to make their claim.⁴

⁴ A woman who arrives in the UK via a 'safe third country' or who is unable to make herself known to authorities 'without delay' (and is subsequently recognised in the UK as a refugee) would fall under 'Group 2'. As a 'Group 2' refugee, she would have no automatic path to settlement, even where it is proven that she has a well-founded fear of persecution. She would have restricted family reunion rights

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- Safety4Sisters experience strongly backs up the response outlined by the ‘by and for’ specialist VAWG organisation Southall Black Sisters to the New Plan for Immigration, Clause 10 **takes no account of the “desperate circumstances in which many women...are forced to flee** from their countries of origin, or of how the experience of gender-based violence shapes their journey to the UK and determines the extent to which they can adhere to complex and changing immigration rules on arrival.”⁵ We know that prior to and after arriving in the UK as a result of gender-based violence, many survivors do not know their rights and/or are deliberately deceived about asylum and immigration law. In many cases, survivors who arrive in the UK struggle to access the appropriate information or support in order to make an immediate claim. Women escaping gender-based violence must not be punished in these contexts.
- **The proposal contradicts long-standing evidence about the difficulties that women face in disclosing gender-based violence, abuse and trauma.**

It is Safety4Sisters experience that that the process of disclosing a history of violence and abuse is often incredibly difficult for survivors and can take an extended period of time. Women have to build up a trust and feel safe to disclose violence and abuse and need to know there is understanding, respect and also support during and afterwards. .

It is unacceptable that women be penalised for a delay in this context. (It is for this reason that we also object to Clause 16 and Clause 17 which specify that if a person fails to provide evidence within a specified period their credibility

and limited access to public funds. Clause 10(5) also allows the Home Secretary to set the length of any limited period of leave for ‘Group 2’ refugees, such that they may be indefinitely liable for removal. Temporary protection status could afford a person no more than 30 months of leave - according to the New Plan for Immigration - after which they will be reassessed for return or removal.⁴

⁵ Southall Black Sisters (May 2021) Lessons not Learned: The Home Office’s New Plan for Immigration represents an escalation of the ‘hostile’ environment policy, not a break from it: <https://southallblacksisters.org.uk/news/lessons-not-learned/#:~:text=Lessons%20Not%20Learned%3A%20The%20Home,not%20a%20break%20from%20it&text=The%20Plan%20is%20primarily%20focused,and%20those%20seeking%20asylum%20the%20mselves>

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could be damaged, and to Clause 23 which encourages decision-makers to give ‘minimal weight’ to later evidence ‘unless there are good reasons’, which is undefined in the Bill and therefore left entirely to the discretion of the Home Secretary.)

- The Government’s explanatory notes on the Bill state that temporary protection status ‘may only allow access to public funds in cases of destitution’. **Institutionalising women’s precarity and destitution through ‘temporary protection status’ creates conditions that are ripe for abuse and exploitation.** Safety4Sisters have witnessed that the majority of women we support have been told by their abusers that there is no way out of the abuse because of their ineligibility to public funds if they left trapping women in harmful and abusive situations⁶ and putting them at further risk of escalating violence.

The Governments own draft statutory guidance framework for domestic abuse reports that survivors’ lack of access to public services and funds⁷ can create dependency on others, which is often exploited by abusers to exert control over them. This was affirmed by research by Women for Refugee Women in 2020 with women seeking asylum, which found that 35% said that destitution forced them to stay in a relationship they would not have otherwise stayed in: 38% of those who stayed in an unwanted relationship were raped by their partner, 41% experienced another form of sexual violence, and 35% were physically abused.⁸ The creation of such a temporary protection status will create conditions that coerce women into withstanding abusive relationships and environments to avoid destitution, homelessness and the fear of return to countries where they have fled danger.⁹

⁶ Southall Black Sisters (2021) The Domestic Abuse Bill and Migrant Women: Briefing Paper 2: <https://southallblacksisters.org.uk/wp-content/uploads/2021/01/DA-Bill-Briefing-Paper-2.pdf>

⁷ See Paragraph 77 page 21 of Home Office (July 2020) Domestic Abuse Draft Statutory Guidance Framework: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/896640/Draft_statutory_guidance_July_2020.pdf

⁸ Women for Refugee Women (2020) Will I Ever Be Safe? Asylum-seeking women made destitute in the UK: <https://www.refugeewomen.co.uk/wp-content/uploads/2020/02/WRW-Will-I-ever-be-safe-web.pdf>

⁹ Southall Black Sisters (2021) The Domestic Abuse Bill and Migrant Women: Briefing Paper 2: <https://southallblacksisters.org.uk/wp-content/uploads/2021/01/DA-Bill-Briefing-Paper-2.pdf>

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- Furthermore, **restricting access to public funds would lead to further pressure on specialist VAWG services** who are already struggling to meet the demand for support from migrant survivors with insecure immigration status and/or subject to the No Recourse to Public Funds (NRPF) condition, who are at heightened risk of abuse. **Figures from the Safety4Sisters 2020, report 3 months into the COVID 19 pandemic reported that 100% of women calling their service for support in relation to domestic abuse who were nor recourse to public funds were refused refuge or safe accommodation before they rung Safety4Sistersm** ¹⁰ During the passage of the Domestic Abuse Act in Parliament, the Government acknowledged that there is a gap in protection for women with insecure immigration status and subject to NRPF, and established a temporary Support for Migrant Victims scheme. However, it has capacity to support a maximum of 500 women over a 12-month period and many women remain without protection. This clause would only worsen an already urgent problem created by immigration policies.¹¹
 - Restrictions to family reunion rules for those with temporary protection status will also disadvantage women seeking to join a spouse, putting more women are risk of being compelled to make dangerous journeys.
- 3. The expansion of accommodation centres which are re-traumatising for women and girls**

The expansion of accommodation centres will negatively impact women seeking asylum, many of whom are survivors of rape and other forms of gender-based violence.

- We object to clause 11 which would expand asylum accommodation centres for people waiting for their asylum claims to be processed, without any time limit (under subsection 8). Many women already wait for claims to be processed for

¹⁰ Safety4Sisters (2021) Locked out of safety, locked in abuse : Pandemic experiences of Migrant women <https://www.safety4sisters.org/blog/2020/10/19/locked-in-abuse-locked-out-of-safety-the-pandemic-experiences-of-migrant-women>

¹¹ Southall Black Sisters (2021) Briefing Paper on the Government's Pilot Project to support Abused Women with No Recourse to Public Funds (NRPF): <https://southallblacksisters.org.uk/wp-content/uploads/2021/02/SBS-briefing-Pilot-Project-1.pdf>

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years, and these environments are inappropriate and often re-traumatising for survivors. The survivors whom Safety4Sisters support who have been in Yarls Wood detention centre and in temporary accommodation holding centres have disclosed the retrauma and fear they have experienced at a time when they need safe, and a therapeutic environments for recovery and mental well being. They describe how the control, imprisonment and isolation they had experienced at the hands of absuers feels replicated in these centres.

- **The lack of privacy that characterises such sites is also harmful for women who have experienced gender-based violence as it hinders survivors' ability to disclose** their history. The APPG on Immigration Detention notes that in Napier Barracks and Penally Camp, 'the lack of private space was forcing residents to hold sensitive discussions, for example with lawyers, within earshot of other residents and/or staff'. Accommodation centres are the antithesis of environments conducive to the disclosure of gender-based violence including rape and sexual exploitation, let alone recovery. The use of accommodation centres will harm women's ability to get their claims for protection recognised.

4. Offshore processing and detention of women seeking asylum

We object to the detention and off-shore processing of people seeking asylum, particularly due to the serious risk of gender-based violence occurring in these centres.

- Previous investigations of detention centres in the UK, such as the Lampard Report (2015) on Yarls Wood highlighted that between 2007-15, 10 members of staff were dismissed for incidents involving 'sexual impropriety' towards women held there.¹² The UK government will have even less control over the treatment of detainees in offshore detention centres. Thus, the risk to women of sexual violence and abuse in such centres will be increased. The sexual harassment and violence of women detained offshore by the Australian

¹² Lampard, K. (2016) *Independent Investigation into Concerns about Yarls Wood Immigration Removal Centre*; <https://www.verita.net/wp-content/uploads/2016/04/Independent-investigation-into-concerns-about-Yarls-Wood-immigration-removal-centre-Serco-plc-Kate-Lampard-Ed-Marsden-January-2016-1.pdf>

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government has been well documented¹³ and it is indefensible that the UK government puts women and girls at risk in this way.

Safety4Sisters urges members of the Bill Committee to object to these proposals, which will harm women subject to gender-based violence and increase the risk of re-victimisation and re-traumatisation in the UK. The UK government has promised victims and survivors and women’s organisations like ours that it is committed to preventing and addressing violence against women and girls in all its forms. However, our expertise and experience tells us that the proposals outlined above in the Nationality and Borders Bill, seriously undermine these commitments.

For further information please contact Vicky Marsh vicky@safety4sisters.org

¹³ See, for instance, Refugee Council of Australia (2020) *Australia’s Man-made Crisis on Nauru*; <https://www.refugeecouncil.org.au/nauru-report/>

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