



SafeLives' submission to the Nationality and Borders Public Bill Committee October 2021

About us

We are SafeLives, the UK-wide charity dedicated to ending domestic abuse, for everyone and for good.

We work with organisations across the UK to transform the response to domestic abuse. We want what you would want for your best friend. We listen to survivors, putting their voices at the heart of our thinking. We look at the whole picture for each individual and family to get the right help at the right time to make families everywhere safe and well. And we challenge perpetrators to change, asking 'why doesn't he stop?' rather than 'why doesn't she leave?' This applies whatever the gender of the victim or perpetrator and whatever the nature of their relationship.

Last year alone, nearly 13,500 professionals received our training. Over 70,000 adults at risk of serious harm or murder and more than 85,000 children received support through dedicated multi-agency support designed by us and delivered with partners. In the last four years, over 2,000 perpetrators have been challenged and supported to change by interventions we created with partners, and that's just the start.

Together we can end domestic abuse. Forever. For everyone.

Introduction

SafeLives is concerned that proposals within the Nationality and Borders Bill will cause harm to women who have experienced gender-based violence and domestic abuse. Rather than assisting vulnerable women and girls, we believe the Bill in its current form will undermine the Government's commitment to addressing violence against women and girls (VAWG) and lead to greater levels of exploitation and victimisation of women.

We support the written and oral evidence already provided by Women for Refugee Women, and we ask Bill Committee members to reconsider the proposals outlined below.

The Government's VAWG strategy, published in July 2021, committed to 'bring[ing] about real and lasting change', recognising that VAWG is 'still far too prevalent and there are too many instances of victims and survivors being let down.' At the same time, there are important national conversations happening about the need to address the scale of abuse towards women and girls in our society, illuminated by the horrendous murders of Sarah Everard, Sabina Nessa and far too many others. The Government has sought to reassure women and girls, and the specialist VAWG organisations which support them, that this issue is being taken seriously. The Home Secretary has stated: "Women and girls have said 'enough is enough' and the Conservative Party agrees."¹

We are concerned, however, that these commitments are significantly undermined by proposals in the Nationality and Borders Bill. This reinforces concern that our organisations felt when the needs of migrant women were excluded from the recently passed Domestic Abuse Act.

¹ Patel, P. (2021), *Home Secretary's Speech to the Conservative Party Conference 2021*. Available at: <https://www.conservatives.com/news/taking-the-tough-decisions-to-cut-crime>

If the Government is to fulfil the 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,’ we recommend that the sector’s concerns are heard in full and responded to.²

As we highlighted in our response to the VAWG Strategy call for evidence, we recommend that the Government deliver the ratification of the Istanbul Convention, which the UK Government signed so many years ago. The Step Up Migrant Women campaign has highlighted that the current inability to meet this framework for addressing VAWG is largely due to the treatment of migrant survivors of VAWG and domestic abuse.³ We are concerned that this Bill’s proposals will create further difficulties for women and girls experiencing abuse, and the organisations doing life-saving work to support them.

Increasing barriers for survivors of gender-based violence

The introduction, in 30(2), of a restricted definition of ‘particular social group’ will harm survivors of gender-based violence as this provision in Article 1(A)(2) Refugee Convention is relied upon by survivors to obtain refugee status. The proposed definition will increase the threshold from one criterion to two in order for an applicant to demonstrate their membership of a ‘particular social group’. This will increase barriers for those seeking to obtain refugee status.

We note the UNHCR’s view that “this could exclude some refugees the protection to which they are entitled.” **In its current form, requiring only one criterion to be met, “the particular social group ground has proved critical in the protection of those with claims based on gender, sexual orientation, gender identity, status as former victims of trafficking, disability or mental-ill health, family and age.”**⁴ Domestic jurisprudence has stated that the proposed change could “give rise to protection gaps which is contrary to the obligations of signatories to the Refugee Convention.”⁵

We echo Women for Refugee Women’s statement that: “this change was not heralded in the consultation and is an unexplained regressive step that, coupled with the change in the well-founded fear test, will result in more women being wrongly refused asylum.”

The creation of a two-tier system

We are deeply concerned by the plans in Clause 10 to exclude women from a path to settlement and access to public funds due to how they arrived in the UK, and how quickly they were able to make their claim.⁶

As outlined by Southall Black Sisters, a specialist by-and-for organisation supporting Black, Asian and racially minoritised survivors, in their response 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.”⁷

² 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

³ The Council of Europe’s convention on preventing and combating violence against women and girls is internationally regarded as 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)

⁴ UNHCR (2021), *UNHCR Observations on the Nationality and Borders Bill 141, 2021-22*, p50 Available at: <https://www.unhcr.org/uk/615ff04d4.pdf>

⁵ DH (Particular Social Group: Mental Health) Afghanistan [2020] UKUT 223 (IAC).

⁶ 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 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.

⁷ 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->

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.**

In addition, we know that the process of disclosing an experience of abuse can be incredibly difficult for survivors. It can take time for a survivor to identify their experience as abusive, especially if it has been normalised through prior experiences of abuse in intimate relationships or in the household as a child, and to feel ready and able to disclose. The impact of trauma can extend to temporarily forgetting and 'blocking out' certain experiences.

There are clear parallels here with important progress the Government has made in recognition of abuses perpetrated against UK-born citizens. Recent examples, including many from the Independent Inquiry into Child Sexual Abuse, indicate how critical it is for survivors of abuse, violence and exploitation to be provided with appropriate safety and reassurance in order for them to disclose what has happened to them, including in non-recent cases. The Government should be proud of making advances in the way we think about abuse, and should apply this thinking to domestic abuse and other GBV as it relates to women who are more recently arrived in the UK.

As Women for Refugee Women explained in their oral evidence to the Bill Committee: "women who have been traumatised, because they have been violated, raped and all that, cannot provide that evidence straight away. They need time to heal, to be protected, to access mental health support. They need time to understand the system."⁸

Therefore, women must not be penalised for such delays and **we recommend the Committee remove or amend Clause 10 to take this into account.**

Similarly, our concerns extend to Clauses 16 and 17, which specify that if a person fails to provide evidence within a specified period, their credibility could be damaged, and Clause 23, which encourages decision-makers to give 'minimal weight' to evidence provided after a delay 'unless there are good reasons' – which remain undefined in the Bill and therefore left entirely to the Home Secretary's discretion.

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 which are ripe for abuse and exploitation.** We already know that living in a state of limbo in the UK without routes to settlement and being excluded from the welfare safety net traps women in harmful situations and puts them at risk of escalating abuse.⁹

The Home Office's draft statutory guidance for domestic abuse reports that survivors' lack of access to public services and funds can create dependency on others, which is often exploited by abusers to exert control over them.¹⁰ This was affirmed by research by Women for Refugee Women 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. Of those who stayed in an unwanted relationship, 38% were raped by their partner, 41% experienced another form of sexual violence, and 35% experienced physical abuse.¹¹ Barring women from accessible routes to come forward and explain their situation also leaves them vulnerable to other forms of exploitation, including labour exploitation and 'sex for rent' coercion

[learned/#:~:text=Lessons%20Not%20Learned%3A%20The%20Home.not%20a%20break%20from%20it&text=The%20Plan%20is%20primarily%20focused.and%20those%20seeking%20asylum%20themselves](#)

⁸ HC Deb (23 September 2021) col 107 [https://hansard.parliament.uk/commons/2021-09-23/debates/122e6daf-470b-49c5-a05e-4daba0170c73/NationalityAndBordersBill\(FourthSitting\)](https://hansard.parliament.uk/commons/2021-09-23/debates/122e6daf-470b-49c5-a05e-4daba0170c73/NationalityAndBordersBill(FourthSitting))

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>

¹⁰ 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

¹¹ 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>

by harmful individuals or even organised crime gangs. SafeLives explored this in our SpotLight report, Safe at Home.¹²

It is critical that different policy areas within the Home Office and wider Government are fully joined up, with an understanding that leaving women in vulnerable situations will impact on them individually, and also potentially on the safety of the wider community, and multiple forms of criminality. The Joint Terrorism Analysis Centre and other specialist colleagues such as RUSI have at times reported on the precarious situations of children and adolescents left with their mums in very dangerous situations which would be avoidable if the immigration and asylum system could work with a wide range of risks and benefits in mind.

The creation of a temporary protection status will create conditions which could coerce women into remaining in abusive relationships and environments to avoid destitution, homelessness and the fear of returning to countries where they have fled danger.¹³ As noted above, this risk to individual women should also be viewed in the context of wider risk to their children and to communities.

Restricting access to public funds does not remove the cost. It simply shifts cost from Government to 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. 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 only 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.¹⁴

The expansion of accommodation centres which are re-traumatising for women and girls

We strongly believe 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 are concerned about the expansion, in Clause 11, of asylum accommodation centres for those 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 years in environments which are entirely inappropriate and often re-traumatising for survivors of VAWG. These centres share many parallels with survivors' previous experiences of domestic abuse and VAWG, including confinement to environments which feel unsafe and restrictions on freedom and the ability to make decisions about their daily routines.

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 experiences. The APPG on Immigration Detention noted 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."¹⁵

Offshore processing and detention of women seeking asylum

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

Previous investigations of detention centres in the UK, such as the Lampard Report into Yarl's Wood, highlighted that between 2007-15, ten members of staff were dismissed for incidents involving 'sexual

¹² https://safelives.org.uk/sites/default/files/resources/Safe_at_home_Spotlight_web.pdf

¹³ 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>

¹⁴ 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>

¹⁵ APPG on Immigration Detention (2021), *Inquiry into quasi-detention: Interim report – summary of oral evidence sessions*. Available at: <https://appgdetention.org.uk/wp-content/uploads/2021/09/210907-APPG-Inquiry-Interim-report-Summary-of-oral-evidence-sessions.pdf?x78463>

impropriety' towards women held there.¹⁶ There have been multiple concerns raised, over the years, about the treatment of women and adolescents within these centres, with low levels of assurance available about the private sector staff who run them. Given the power dynamic at work in such centres, the structure creates further opportunities for abusive situations, when they could be avoided through other methods and approaches.

The UK Government will have even less control over the treatment of detainees in offshore detention centres, and 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 government has been well documented and we strongly urge that this Government does not endanger women and girls when in other parts of policy it is creating so much positive change.^{17,18}

SafeLives strongly recommends members of the Bill Committee object to these proposals, which we believe will harm survivors of gender-based violence and increase the risk of re-victimisation and re-traumatisation in the UK.

Verona Taylor-Blackford
Public Affairs and Policy Officer
verona.taylor-blackford@safelives.org.uk
07593 584 442

¹⁶ 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>

¹⁸ See, for instance, Refugee Council of Australia (2020) *Australia's Man-made Crisis on Nauru*; <https://www.refugeecouncil.org.au/nauru-report/>