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**Surviving Economic Abuse**

4<sup>th</sup> November 2021

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# **Surviving Economic Abuse (SEA) submission to the Nationality and Borders Public Bill Committee: November 2021**

## **About Surviving Economic Abuse**

1 Surviving Economic Abuse (SEA) is the only charity in the UK dedicated to raising awareness of economic abuse and transforming responses to it. All our work is informed by Experts by Experience – a group of women who speak about what they have gone through so that they can be a force for change. Economic abuse is the control of a person’s economic resources through restriction, exploitation or sabotage. Resources can include money, food, transportation and accommodation.

## **Introduction**

2 SEA 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 women’s organisation with specific expertise in economic abuse as a form of coercive control over intimate partners, we reject claims made that its proposals would assist vulnerable women and girls. Instead, we submit that the Bill in its current form would cause harm and would greatly undermine the Government’s commitment to addressing violence against women and girls.

3 At a time when there are important national conversations happening about how to prevent and address gender-based violence in our society, we are clear that the Nationality and Borders Bill in its current form will harm survivors and lead to greater exploitation and victimisation of women. We

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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 promises to address violence against women and girls

4 The Government's Violence Against Women and Girls (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 tragic murders of Sarah Everard, Sabina Nessa and far too many others. The Government has sought to reassure women and girls and the specialist women's organisations like ours that 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."

5 As a specialist organisation addressing violence against women and girls, we state however, that **these commitments are gravely undermined by proposals in the Nationality and Borders Bill**. 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',<sup>1</sup> we ask that it take heed of SEA's concerns about this Bill.

6 SEA is already troubled by the fact that the Government is 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.<sup>2</sup> Our concern is that the Government's record on addressing VAWG will be eroded even further should it proceed with this legislation in its current form. We are concerned that its proposals will create

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<sup>1</sup> 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](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)

<sup>2</sup> 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).

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further difficulties for women and girls subject to abuse, and the organisations supporting them in the UK.

7 Whilst the Equality Impact Assessment accompanying the Bill alleged that proposals could ‘advance the equality of opportunity for a cohort of females,’<sup>3</sup> we set out some key ways in which they would cause harm to women and girls and increase the risk of gender-based violence.

**8 We outline below our concerns regarding five key measures within the Bill related specifically to VAWG. However, we also support broader opposition to the Bill from a cross-section of society, based on its punitive and discriminatory proposals towards all those seeking refuge in the UK in desperate circumstances.**

## Five ways the Nationality and Borders Bill will harm women and girls:

### 1. More barriers for survivors of gender-based violence to proving a well-founded fear

9 Clause 30 has been highlighted by Women for Refugee Women as one of the most damaging, yet under-scrutinised aspects of the Bill in relation to women fleeing gender-based violence. The introduction of a restricted definition of ‘particular social group’ will harm women subject to gender-based violence because this ground in the Refugee Convention is frequently relied upon by survivors in order to obtain refugee status. The proposed definition will mean that two criteria must be met in order for an applicant to show that they are a member of ‘particular social group’, rather than one (as is currently the case). This would represent an additional hurdle for those seeking to obtain refugee status and would disproportionately impact women. We repeat the statement made by Women for Refugee women that:

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<sup>3</sup> New Plan for Immigration Overarching Equality Impact Assessment of policies 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](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1018188/Nationality_and_Borders_Bill_-_EIA.pdf)

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*“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.”*

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## 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.**

10 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.<sup>4</sup>

11 As outlined by the ‘by and for’ specialist VAWG organisation Southall Black Sisters 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.”<sup>5</sup> 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.

12 The proposal contradicts long-standing evidence about the difficulties that women face in disclosing gender-based violence, abuse and trauma. It is widely understood by specialist women’s

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<sup>4</sup> 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.

<sup>5</sup> 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%20themselves>

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organisations 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. As explained by Women for Refugee Women 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.”<sup>6</sup>

13 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 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.

14 Clauses 16, 17 and 23 contradict government guidance and ignore developments in neurobiology which show the link between trauma, memory and other factors impacting disclosure, and the need for a ‘trauma-informed’ approach. This need is recognised in other areas of the Home Office’s work. For an example an outcome of the Rape and Serious Sexual Offences Strategy is for prosecutors and advocates to “understand the impact of trauma on memory.”<sup>7</sup> Similarly, in 2021, the Home Office has invested in specialist trauma-informed training for local authorities working with children and young people at risk of serious violence.<sup>8</sup> **The Modern Slavery Statutory Guidance published by the Home Office in June 2021 specifically states that, when interviewing people who have experienced trauma, not being able to recount a story should not affect credibility:**<sup>9</sup>

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*“Victims of modern slavery should be interviewed in an appropriate way to avoid re-traumatising victims. Interviewers and decision makers must not automatically draw negative assumptions if a victim cannot recount details of their experience when assessing credibility.” – Home Office*

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<sup>6</sup> 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))

<sup>7</sup> <https://www.cps.gov.uk/sites/default/files/documents/publications/RASSO-2025-strategy.pdf>

<sup>8</sup> <https://www.gov.uk/government/news/new-investment-to-support-young-people-at-risk-of-serious-violence>

<sup>9</sup> [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/102371/1/DRAFT\\_-\\_Modern\\_Slavery\\_Statutory\\_Guidance\\_\\_EW\\_\\_Non-Statutory\\_Guidance\\_\\_SNI\\_\\_v2.4\\_.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/102371/1/DRAFT_-_Modern_Slavery_Statutory_Guidance__EW__Non-Statutory_Guidance__SNI__v2.4_.pdf)

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15 The guidance goes on to clarify further reasons why this may be the case, due to the behaviour of traffickers or the impact of trauma and outlines a full Trauma-Informed Code of Conduct:<sup>10</sup>

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*“It is not uncommon for traffickers and exploiters to provide stories for victims to tell if approached by the authorities. Errors, omissions and inconsistencies may be because their initial stories are composed by others and they are acting under instruction. They can also arise due to the impact of trauma, which can, for example, lead to delayed disclosure or difficulty recalling facts.” – Home Office*

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16 There is a stark difference between established policy and approach by the Home Office, and other Government departments, on responding to traumatised victims and the proposals set out in the Nationality and Borders Bill. SEA and other organisations highlighted during the passage of the Domestic Abuse Bill (now the Domestic Abuse Act 2021) that all victim-survivors must be able to access safety, without discrimination.<sup>11</sup> Similarly, this Bill must not exclude some of the most vulnerable and marginalised from protection, particularly through a process of decision making that offers a significantly lower level of support and understanding than can be expected elsewhere, for example when reporting sexual violence offences to the police. Crucially, it must not directly contradict the other Home Office Statutory Guidance.

### 3. Expansion of the no recourse to public funds condition

17 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 conducive for abusers to use and exploit.** 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 and abusive situations<sup>12</sup> and puts them at risk of escalating violence.

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[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/1023711/DRAFT\\_-\\_Modern\\_Slavery\\_Statutory\\_Guidance\\_\\_EW\\_\\_Non-Statutory\\_Guidance\\_\\_SNI\\_\\_v2.4\\_.pdf#page=105&zoom=100,93,640](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1023711/DRAFT_-_Modern_Slavery_Statutory_Guidance__EW__Non-Statutory_Guidance__SNI__v2.4_.pdf#page=105&zoom=100,93,640)

<sup>11</sup> <https://survivingeconomicabuse.org/the-domestic-abuse-act-must-provide-safety-for-all-women/>

<sup>12</sup> 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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18 Not only do migrant survivors face perpetrators using their immigration status as a means of control and abuse, but they also experience a **state-sanctioned form of institutional economic abuse as the state also uses their immigration status to prohibit access to economic safety**. We know overwhelmingly that migrant women are denied access to refuge, housing and to welfare, women are sent from pillar to post, searching for help for themselves and their children, forced between returning to an abuser or sleeping on the streets.

19 The Government's own draft statutory guidance framework for domestic abuse reports that survivors' lack of access to public services and funds<sup>13</sup> 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.<sup>14</sup> **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.**<sup>15</sup>

20 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. As it stands, figures from Women's Aid for England and Wales shows that in 2019/20, almost 4 in 5 migrant women subject to NRPF were turned away from a refuge<sup>16</sup> and this group makes up a large cohort of service-users of specialist 'by and for' services for black and minoritised women. 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

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<sup>13</sup> 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](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/896640/Draft_statutory_guidance_July_2020.pdf)

<sup>14</sup> 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>

<sup>15</sup> 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>

<sup>16</sup> Women's Aid (2020) Nowhere to turn 2020: Findings from the Fourth Year of the No Woman Turned Away Project: <https://www.womensaid.org.uk/wp-content/uploads/2020/06/Nowhere-to-Turn-2020.pdf>

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without protection. This clause would only worsen an already urgent problem created by immigration policies.<sup>17</sup>

21 The new statutory definition of domestic abuse within the Domestic Abuse Act 2021 now includes economic abuse. Government policies need to be consistent with this increased and explicit recognition of economic abuse and not undermine it through legislation such as the Nationality and Borders Bill.

22 Restrictions to family reunion rules for those with temporary protection status will also disadvantage women seeking to join a spouse, putting more women at risk of being compelled to make dangerous journeys.

#### **4. The expansion of accommodation centres which are re-traumatising for women and girls**

23 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.

24 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 years, and these environments are inappropriate and often re-traumatising for survivors. Being confined to living in closed environments that feel/are unsafe, with restricted liberty or autonomy to make decisions about their daily routines and company, shares many parallels with survivors' previous experiences of gender-based violence of having been imprisoned and controlled.

25 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.

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<sup>17</sup> 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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## 5. 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.**

26 Previous investigations of detention centres in the UK, such as the Lampard Report (2015) on Yarl's Wood highlighted that between 2007-15, 10 members of staff were dismissed for incidents involving 'sexual impropriety' towards women held there.<sup>18</sup> 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 government has been well documented<sup>19</sup> and it is indefensible that the UK government puts women at risk in this way.

**SEA 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 tell us that the proposals outlined above in the Nationality and Borders Bill seriously undermine these commitments.**

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<sup>18</sup> Lampard, K. (2016) *Independent Investigation into Concerns about Yarl's 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>

<sup>19</sup> 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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