

Domestic Abuse and Women with No Recourse to Public Funds: Where Human Rights Do Not Reach

Executive Summary

This Executive Summary outlines findings and recommendations from research to identify the experience of women who are subject to immigration control and experience domestic abuse in the UK. Focussing on one immigration rule, 'no recourse to public funds,' it concludes that the fundamental rights of women in the UK, to life, and to freedom from torture, are being violated. The state does not uphold the rights of these women, nor is it neutral. Rather, the role of the state prolongs the abuse and makes it worse. This summary also summarises recommended changes to law and policy.

The No Recourse to Public Funds (NRPF) rule means that women subject to immigration controls on a variety of visa statuses cannot access benefits, and therefore they cannot access safe refuge accommodation or other support, even if they are the victims of serious and sustained crimes.

Findings

Insecure immigration status shapes the abuse, increases its severity and prolongs it, across a range of different forms of violence against women and girls.

VIOLENCE AND VULNERABILITY

'Someone was sleeping on the (Sikh) Temple floor, and she was pregnant. And social services would not support her..., and this woman had nobody. No food. And how she got pregnant is another issue. Because she had come out of an abusive relationship, had NRPF, she was then reliant on this man to keep her...she definitely was being sexually exploited.

'Women have been ...making themselves nests, on the top of...tower blocks. They would use blankets and cardboard to make a nest for them and their baby. They lived like that for four months, because they were terrified of either being caught without papers.

This includes so-called honour based violence, forced marriage, domestic violence including sexual violence, systematic sexual exploitation in the commercial sex trades, trafficking, harassment, stalking, and homicide.

This violence spans four contexts identified by UN Special Rapporteurs on Violence Against Women: it happens in the family, in the community, in interactions with the state, and across borders in the transnational sphere.

Immigration status shapes the abuse women experience, increases its severity and prolongs it. If informal networks of extended family or friends are not available, there is in fact no safe place to go.

Some women experiencing domestic abuse who are subject to immigration controls are doing risk assessments, ringing to ask service providers about what is available if they were to leave. After a risk assessment, they frequently choose to stay with abusers. We do not have reliable estimates of women who are 'trapped.'

The state actively reinforces a political and social climate that is hostile to migrants, with for example, barriers to health care, and landlord checks on immigration status of tenants. This climate, on balance of probabilities, exacerbates the fear and unwillingness of women subject to immigration control to disclose abuse.

[Routes to safety have risks:](#)

Women who do leave may find safety and support (through some legal duties and concessions), especially the Destitute Domestic Violence rule (or DDV, for those on spousal visas), a duty of care to support children, assessments on the basis of destitution or additional care needs, and trafficking, or successful asylum claims.

The application of the legal duties and concessions is patchy and inconsistent.

The Home Office provides no training or resourcing to local authorities to implement the law where there may be either a power or duty to support migrant women experiencing domestic abuse.

Voluntary agencies make efforts to assist women with safe accommodation and outreach support, through faith groups, charities and even personal resources.

DOMESTIC HOMICIDE REVIEW

However, women face risks as they present to statutory and voluntary service providers. They may be sent to other geographic areas and from statutory to voluntary agencies. Their children may be taken into care or they lose custody of children to the perpetrators as they seek assistance.

Only women on one type of visa, spousal visas, are eligible for Destitute Domestic violence rule, where they may access safety and support while they apply to regularise their immigration status. Women and girls on other visas: dependents, students, over stayers, refused asylum seekers, and others, are not eligible. Even if they are eligible for help, some women are refused it.

When these women flee domestic violence and are turned away, they face increasing vulnerability to discrimination, abuse and violence: for example, they:

- return to abusive partners;
- are returned back to country of origin unwillingly, perhaps having had children taken into care in the UK;
- become destitute/roofless;
- work in exploitative conditions (eg domestic servitude);
- seek help from people (usually men) who become new abusers;
- go into prostitution/sex trade;
- disappear.

'Disappearing' according to service providers may include a combination of the above experiences and grave danger.

Some service providers said they knew of fatalities linked to NRPF.

Fatalities

Through materials in the public domain, I have identified four examples of the link between immigration status, with its lack of access to safety and support, with fatalities since 2011. In three cases, women have been killed with

'Adult Ds immigrant status had an impact on attempts made by agencies to manage risk to her and the children because she was excluded from benefits and services. She was ineligible for housing. No service was available that would have provided a safe place for her in order that risk might be managed.' (K Mitchell, DHR Report into the Death of Adult D Feb 2013)

insecure status, and in one case immigration status of the mother is noted to have been a factor in the failure to access services to prevent the death of a child. Domestic Homicide Reviews do not ask or answer the questions in a consistent way, and this could be improved to learn the lessons from fatalities where immigration status has been a significant risk factor.

Victims of Crime

Women and children who experience domestic abuse, whether they are subject to immigration control or not, are victims of very serious crimes and risk being killed. As victims of crimes they should experience a response by the state that reinforces their human dignity and human rights as they seek safety, support and justice. Further, measures should be taken to prevent crimes, or further crimes, being committed against them as well as other potential victims. Service providers queried the cost effectiveness of not providing safety and support to these women and their children: when set against escalating costs in terms of blue light services, accident and emergency services, public health, the criminal justice system and long term care for children who have been abused and traumatised among other costs.

Human rights obligations

Law and practice in the United Kingdom fall short of international obligations the UK government has undertaken.

Access to safety and support should depend women's experience of domestic abuse, not their visa status. Exclusions from safety and support enshrined in the NRPF law do not meet obligations imposed by CEDAW, the ICCPR, ICESCR, UNCRC and the ECHR/Council of Europe standards. (See Chapters 4 - 10).

There are a range of ways the UK government should better meet its international obligations with more effective due diligence, as developed in the complaints taken according to the CEDAW Optional Protocol, and in the European Court, to uphold rights, and prevent serious crime, including homicides. Exclusions from benefits for women experiencing domestic violence are in danger of breaching Articles 2, 3, 4, 5, 6, 8, 12, 13 and 14 within the European Convention of Human Rights, incorporated into domestic law by the Human Rights Act 1998.

Recommendations for Law and Practice

To uphold Article 2 and Article 3 rights, access to safety and support should be dependent on the experience of domestic abuse. It should not be dependent, as it is now, on immigration status, the presence of children, married status, or additional care needs interpreted very narrowly ('destitution plus').

The United Kingdom government should:

1. Implement recommendations in the Council of Europe Rec (2002) 5 that victims receive safety and support without discrimination as to immigration status.
2. Ratify and implement the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence (Istanbul, 11.V.2011). This includes provisions for safety and support for victims of gendered violence against women and domestic violence, and its provisions for regularising the status of women with insecure immigration status who experience violence with an autonomous residence permit (Art 59), the suspension of deportation proceedings and renewable residence permits in some circumstances.
3. Extend Destitute Domestic Violence (DDV) provisions for women of any visa status experiencing domestic abuse. This would allow both access to benefits (DDV concession) and access to regularise her immigration status (DDV rule).
4. Allow access to temporary work permits while status is regularised. Women who are applying to regularise their status through an extended DDV should be allowed options to support themselves through paid employment.
5. Assist in the prevention of crime by raising awareness during immigration control procedures at borders. Border authorities could alert incoming migrants that domestic violence is against the law and that safety and protection are available. At present it appears no statement is made or publicised at border crossings, possibly because in fact, there is no protection.

6. Provide guidance to local authorities about the implementation of immigration rules in cases of domestic abuse. They should provide Guidance on entitlements in immigration law, child safeguarding legislation, welfare law and human rights assessments updated by jurisprudence.
7. Provide training to effectively implement the law to statutory workers who are first responders, or otherwise likely to come into contact with women subject to immigration control who have experienced domestic abuse, within police, health, social, housing, legal/voluntary services.
8. Monitor whether there is consistent application of the law across local authorities and trusts to uphold fundamental rights.
9. Revise Guidance for Domestic Homicide Reviews to reflect immigration status as a risk factor for homicide (Chapter 6, and Chapters 8 & 9).
10. Standardise the remit of DHRs to include immigration status as a practical as well as a cultural issue. The Guidance should direct panels to determine the immigration status of the victim of homicide, the eligibility for benefits and what impact the restricted eligibility for benefits may have had on the victim's help-seeking process.
11. Revise the Guidance for Domestic Homicide Reviews to seek clarity on the law and whether it is properly applied with respect to welfare or human rights assessments. There should be clear recommendations for training to apply the law correctly if it has not been applied correctly, and for the development and/or dissemination of policy.
12. Reinstate emergency crisis funds to assist women and their children. This might be done at the level of the devolved administrations.
13. Assure that there are funded places in refuges for all women affected by domestic violence and their children.

14. Protect financial support for gender specialist domestic violence support organisations, including gender specialist black and minority ethnic organisations who at present bear the brunt of assisting women with insecure status.
15. Monitor immigration status as a risk factor in fatalities of women.
16. Assess the potential savings to the public purse by taking appropriate crime prevention and victim support measures. Compare the costs of providing short term support and accommodation through access to refuges and benefits to the cost of the public purse after homicides and fatalities are taken into account, as well as other serious crime, children in care, blue light services, A and E, and other costs in the criminal justice system.
17. Explore ways in which the state might track visa lapses into overstayer status and make the sponsor accountable for such lapses without further risk to victims of violence in the family.
18. Identify possible strategies of recuperating costs to uphold the right to safety and support for migrant women affected by domestic violence. For example:
 - Visas fees and applications
 - Local Criminal Assets Recovery funds
 - Sponsors for visas when they make the initial application, to have a fund in escrow for marriage breakdown.

Research Methodology:

The research relied on desk-based investigation and data from interviews with professionals who had contact with women with NRPF who experience domestic violence. Between May 2013 and February 2014, I conducted 51 interviews with service providers (statutory and voluntary) in four focus cities: Belfast, Bradford, Glasgow, and Luton. These interviews include the experiences of about 80 individual service providers in those cities, as on a number of occasions, more than one staff member of an organisation took part. Additionally, I gained further insight into national policy contexts by interviewing service providers and advocacy workers in London and Edinburgh. The data gathered in this research therefore reflects a snapshot of a variety of areas across the UK.

'It has opened my eyes to discrimination for these women; how badly they are treated. They are not given their rights that they are entitled to ...Because they don't know the law, don't understand anything, they are not going to put in a complaint. They never question. They are asked to sign things without understanding. They put their belief in social services, police, housing, and they will be let down at the end of it.'

Service provider

The author:

Rebecca Dudley is a professional researcher, policy and training consultant on human rights, currently within the criminal justice system. Since 2002, she has worked for Women's Aid, the Children's Law Centre and the Northern Ireland Human Rights Commission, on training, education and policy issues. She contributed human rights-based research to regional and national policy on violence against women and girls, including the first research on the nature and scope of trafficking in Northern Ireland (2005) and prostitution policy (2008). She also chaired the Voluntary Management Board of Belfast and Lisburn Women's Aid (2008 – 2013). This research is presented in a personal capacity, from her doctoral thesis submitted in fulfilment of the requirement of the Degree of PhD at Queen's University Belfast School of Law.

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