

The Victims Bill and forced migrant survivors of sexual and gender-based violence (SGBV)



UNIVERSITY OF
BIRMINGHAM

Executive Summary

- Globally the scale of forced migration and governance has doubled in the last decade while becoming increasingly feminised. This will intensify with the conflict in Ukraine and situation in Afghanistan. Every year millions of women, children and LGBTQI forced migrants are subject to SGBV in conflict, in flight and in refuge.
- The Victims Bill is a landmark step in ensuring all victims of crime receive the support they need through the criminal justice system.
- University of Birmingham research shows that victims of SGBV who have been forcibly displaced have been let down by British authorities and face further victimization and trauma once in the UK.
- The Victims Bill and the services it will provide should explicitly apply to all victims. This should be set out in primary legislation to avoid discrimination against any groups of victims.
- The failure to enable safe reporting to forced migrant victims of SGBV means they are abused with impunity. Safe reporting will lead to prosecution of abusers who can only function if their victims cannot safely report abuse.
- Services set out in the Bill should be accessible to all victims. The provisions in the Bill will not impact on all victims of violence unless they include special provision for language, immigration and cultural factors and address the issue of safe reporting.

Recommendations

Whilst the draft Bill is very much welcomed, University of Birmingham research has generated evidence which gives rise to the following recommendations to ensure all victims receive the treatment and services needed and have a clear path for justice:

The Bill should apply to all victims

- It is vital that the Victims Code applies to “all”

victims as set out in the consultation and does not restrict application of the code or other provisions in the Bill to specified descriptions of victims.

- The Government have proposed putting forward the overarching principles of the Victims Code in primary legislation and set out key entitlements in secondary legislation. Victims’ entitlements should be clearly set out in primary legislation to avoid misinterpretation and the risk of discrimination against some types or categories of victims.
- All victims must include anyone without regularised immigration status (i.e. asylum seekers, people such as spouses with no recourse to public funds) who are victims of crimes, with priority given to their protection regardless of whether they are subject to immigration processes. Unless their safety is assured, the business model of those who traffic and enslave will continue uninterrupted.
- Any secondary legislation detailing the draft code should be subject to consultation with all victims and the organisations that support them.

Safe reporting for all victims.

- A ‘firewall’ or system of secure reporting should be introduced to make it safer for victims with insecure migration status to report crimes. Without clear and explicit understanding that approaching the police will not result in any engagement with Immigration Enforcement, victims will not report and perpetrators will abuse with impunity. This allows the business model that the Government wishes to disrupt and enables abuse.

Services should be accessible for all victims.

- The Victims Commissioner’s annual report to Parliament should identify where victims’ needs are not being met. The Commissioner should retain oversight of monitoring to keep Police and Crime Commissioners accountable.
- Criminal justice agencies should have a duty to collect data from all victims and not just those who

utilise services or meet described characteristics to measure the Code's success.

- Inspectorates should scrutinise Code compliance and other matters for all victims, including migrants and other minoritised groups.
- A rise in the Victim Surcharge offers the potential to improve availability of services that are often inaccessible to some, including migrant women. The requirement to collaborate offers great potential to ensure that services are designed to meet wide ranging needs.
- Specialist services must be commissioned to meet the complex needs of victims like those identified in the SEREDA project. Without the statutory inclusion of all victims, some victims won't be able to receive the support needed to escape victimisation.
- Independent Sexual Violence Advisers (ISVAs) and Independent Domestic Violence Advisers (IDVAs) must be skilled to work with victims who need specialist support. Legislation should include provision for VAs to work with and within specialist organisations to provide services to all victims.

Professor Jenny Phillimore has proposed these recommendations in full to the Justice Committee's call for evidence as part of their pre-legislative scrutiny of the Victims Bill.

About the research

Over the past four years, the [Sexual and Gender Based Violence against Refugees from Displacement to Arrival \(SEREDA\)](#) research team led by the Professor Phillimore, conducted research between 2018-2020 with 89 forced migrant SGBV survivors, and 47 service providers to understand the nature and incidence of SGBV experienced by refugees who have fled conflict to seek safety in the UK. The project found:

- **Immigration regulations make spousal migrants and secondary applicants in asylum claims dependent on remaining in a relationship to remain in the UK for housing and subsistence.** Spouses in abusive relationships prevent them from learning English and accessing information about how to get help. Many fear breaking up their relationship as they believe they will lose custody of their children, be sent "home" and face honour based violence for bringing shame on their family.
- **Migrant women and children are tricked into being trafficked into the UK unaware that they are undocumented.** They are forced into prostitution and

threatened with immigration detention if they report the abuse. They are unaware that they are victims of crime. They are often told that they will be shamed in their community if they are sent home or that their family will be harmed. Their traffickers victimize with impunity knowing women are too fearful to report abuse.

- **With little information and fear of detention and return, migrants remain in exploitative situations.** They lack knowledge about the Domestic Violence Rule and National Referral Mechanism. The burden of proof to access these mechanisms is hard to meet for those who have been controlled by abusers, are unaware of the need to collate evidence and are denied access to medical and police services. Few have access to services to support recovery and none of our respondents worked with ISVAs or IDVAs.
- **Many individuals in the asylum system are victims of SGBV** – globally around 50% of forced migrants have been subject to SGBV but that figure rises to nearly 100% of all women fleeing Eritrea and/or passing through Libya. Many are subject to multiple acts of victimisation over time and place from different perpetrators. On arrival in the UK these victims are not currently subject to the Code of Practice for Victims of Crime in the asylum system. They are not interviewed in a trauma/gender-sensitive way or routinely given access to victims support services. Asylum interviews can be retraumatising and despite cultural sensitivities and intimate content these are often conducted by male caseworkers in the presence of male interpreters making disclosure of victimisation difficult.
- **Rejected asylum seekers are evicted from asylum accommodation and have no recourse to public funds status.** Women are extremely vulnerable to further victimisation when homeless.
- **Spousal migrants, trafficked and enslaved migrants and rejected asylum seekers fear reporting being victimised** as they risk being detained on immigration offences. Abusers reinforce this fear by threatening to report them to the police for immigration offences if they report victimisation. Many also know of other migrants who have been arrested and detained when reporting a crime.

Contact

Professor Jenny Phillimore, Professor of Migration and Superdiversity J.A.Phillimore@bham.ac.uk