

RIGHTS OF WOMEN BRIEFING:

VIOLENCE AGAINST WOMEN AND “NO RECOURSE TO PUBLIC FUNDS”



Rights of Women

Rights of Women is a well established not-for-profit women's organisation committed to informing, educating and empowering women on the law and their legal rights. Our activities include producing publications, organising conferences and training courses and undertaking policy and research work. We run two national confidential free legal advice helplines for women provided by women, one general advice line specialising in family law issues, including domestic violence, and another on criminal law and procedures in relation to sexual violence and immigration / asylum law.¹

No recourse and violence against women

The “No recourse to public funds” rule (NRPF) prevents people subject to immigration control (for example, spouses or workers) from accessing certain public funds. The term “public funds” is defined in paragraph 6 of the Immigration Rules and includes welfare benefits such as income support and housing benefit as well as housing and homelessness assistance.

¹ Sexual Violence Advice Line (including criminal and immigration / asylum law): 020 7251 8887 (open Monday 11am-1pm and Tuesday 10am-12pm). Family Law Advice Line: 020 7251 6577 (open Tuesday, Wednesday and Thursday 2-4pm and 7-9pm and Friday 12-2pm).

Violence against women is defined as: **“any act of gender-based violence that results in, or is likely to result in, physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life”**². The definition of violence against women specifically includes physical, sexual and psychological violence occurring in the family, sexual harassment and intimidation at work, trafficking and forced prostitution³.

The provision of accommodation and support is vital for women who are experiencing violence, a fact recognised by the Government in its 2003 consultation *Safety and Justice*: **“Victims are often deterred from seeking help or leaving a violent relationship because they have nowhere else to go, do not feel safe in their own homes or do not have legal rights to remain. The availability of safe and secure accommodation for victims, as a respite or as a stepping stone to re-housing, is therefore critical and can be life-saving.”**⁴

However, women who are experiencing violence cannot

² Art 1 *Declaration on the Elimination of Violence against Women*, General Assembly Resolution 48/104 of 20 December 1993.

³ *Ibid*, Article 2.

⁴ Para 1, page 43.

access this support because of the NRPf rule. Consequently they are faced with a choice of either remaining in a violent situation that may be life-threatening or becoming destitute. In this briefing we will explain how the current situation affects women who have experienced violence and what the Government needs to do in order to fulfil its obligations under domestic and international human rights law.

Spouses and domestic violence

Under the Immigration Rules, women who have experienced domestic violence who were admitted to the UK as spouses, civil partners or partners can apply for Indefinite Leave to Remain (ILR) if they can provide evidence that their relationship broke down before the end of their period of limited leave because of domestic violence. Whilst a woman's application for ILR is being processed she has no recourse to public funds.

In *Saving Lives, Reducing Harm. Protecting the Public: An Action Plan for Tackling Violence 2008-11* it is acknowledged that: **“Domestic violence has the highest rate of repeat victimisation”**⁵ so that **“It is important to have services in place to provide immediate, targeted protection and support, to reduce the long-term impact of these crimes, and prevent re-victimisation.”**⁶ The NRPf rule therefore has particularly serious implications for women who are experiencing domestic violence. As

⁵ *Saving Lives. Reducing Harm. Protecting the Public: An Action Plan for Tackling Violence 2008-11*, page 36.

⁶ *Ibid* page 45.

Margaret O'Mara has stated: **“However... their existing immigration status means they have no access to housing provision. In addition, as the majority of these women are from BME communities, there are often additional barriers such as language... Without a place of safety or any means of support, these women are often forced to return to their home to face further abuse and in some extreme cases, homicide.”**⁷

Research done by Southall Black Sisters indicates that there are 600 women in the UK who have an insecure immigration status and are experiencing domestic violence⁸.

Migrant domestic workers

Kalayaan⁹ a charity that provides advice and support to migrant domestic workers has found that of the workers registered with them 25% reported experiencing physical violence while 9% reported experiencing sexual violence. At the moment migrant domestic workers who flee a violent employer are unable to access short-term support because of the NRPf rule. Proposed changes to the Immigration Rules threaten to place domestic workers at even greater risk of abuse by preventing them from changing employers¹⁰.

⁷ Letter from Margaret O'Mara, Director, Crime Reduction sent to all local authorities on 16 February 2006.

⁸ *How Can I Support Her? Domestic Violence, immigration and women with no recourse to public funds* by Southall Black Sisters and the Women's' Resource Centre.

⁹ www.kalayaan.org.uk.

¹⁰ See Focus on Women, Spring 2008.

Kalayaan received enquiries from 386 domestic workers who had experienced abuse between 2005-6.¹¹

Trafficked women

Women are trafficked into the UK for the purposes of sexual or labour exploitation. A trafficked woman's ability to access housing and welfare benefits will depend on her country of origin. Many women who have been trafficked into the UK will not be able to access welfare benefits or housing and support because of the NRPF rule and restrictions that apply to the nationals of certain states in Eastern Europe who have recently joined the European Union. Consequently, trafficked women are unable to access housing and welfare benefits, a position that makes them vulnerable to further exploitation.

Home Office unpublished research indicates that there were 4,000 victims of trafficking for prostitution in the UK during 2003.¹²

Sources of funding available to women who have no recourse to public funds

There are some sources of funding that a woman with no recourse may be able to benefit from, for example, under the **Children Act 1989** and the **National Assistance**

¹¹ 'No Recourse' No Safety The Government's failure to protect women from violence 2008 page 7. The report can be downloaded from www.amnesty.org.uk/content.asp?CategoryId=11227

¹² *Human Trafficking* The Joint Committee on Human Rights 26th report (13th October 2006) page 29.

Act 1921¹³. However, research done by the voluntary and statutory sector has shown these to be insufficient as women are being denied support. A memo from Islington Council to the Home Office states that "**it is clear that significant numbers of victims of domestic violence are denied access to services which would enhance their safety...**"¹⁴

Consequently, '*No Recourse' No Safety*, a report by Amnesty International UK and Southall Black Sisters concluded that the NRPF rule was disproportionate and violated fundamental human rights such as the right to life and the right to be free from inhuman and degrading treatment.¹⁵

Taking action to protect women from violence

Vernon Coaker, Parliamentary Under-Secretary of State for Crime Reduction has stated that the Government intends to introduce a scheme to enable the payment of money retrospectively to organisations who support women who receive ILR under the domestic violence rule¹⁶. While Rights of Women welcomes this development we are concerned that such a scheme would fail to

¹³ For detailed information about sources of funding see Rights of Women's latest publication *Pathways to Justice: BMER women, violence and the law*.

¹⁴ Memo from Harriet Wilkins Community Safety Partnerships Unit Islington Council and Olivia Fellas, Refugee and Migrant Service to the Home Office 11 March 2008.

¹⁵ '*No Recourse' No Safety The Government's failure to protect women from violence* 2008 page 19. .

¹⁶ Evidence given to the Home Affairs Committee - Domestic Violence, Tuesday 4 March 2008.

protect women from violence because:

- the domestic violence rule only offers protection to a small proportion of women who flee domestic violence;
- it does not offer protection to all women who have experienced violence, such as trafficked women or migrant domestic workers;
- it does not provide funding at the time that a woman is most at risk – the point at which she seeks to leave the violent situation she is in.

Rights of Women has therefore joined the **Campaign to Abolish No Recourse to Public Funds**¹⁷ which aims to change the law so women who have experienced violence and have an insecure immigration status can access public funds. Other members of the campaign include the Women's Resource Centre, Southall Black Sisters, Amnesty International UK, Imkaan and Kalayaan. As part of our support for the campaign we will be taking part in the day on action on 23 April 08 and lobbying Ministers.

Rights of Women is calling for:

- The abolition of NRPF for women who are fleeing violence, including domestic violence and sexual exploitation.
- The provision of transitional arrangements while this is achieved to enable all women to access support pending the resolution of their immigration position in the UK.

¹⁷ Further information about the campaign can be found on the Women's Resource Centre website at www.wrc.org.uk.

- Reform to the domestic violence rule so that:
 - applications are fast-tracked;
 - following the case of **AI (Pakistan) [2007]**, all credible evidence of domestic violence is accepted; and
 - all women who have experienced domestic violence, regardless of the type of leave that they have, can apply for protection.
- The ratification of the **Convention on Action against Trafficking in Human Beings 2005**¹⁸ and a review of the current position on housing and benefits to ensure that women who have been trafficked into the UK are able to access safe housing and support, regardless of whether they subsequently claim asylum in the UK or assist in a criminal investigation.
- All women who flee violence and who have an insecure immigration position to be given the ability to access housing and welfare benefits while their immigration position is resolved.

For further information about our legal advice lines, publications and training visit www.rightsofwomen.org.uk.

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¹⁸ The Home Secretary, Jacqui Smith, has said that she intends the UK to have ratified the Trafficking Convention by the end of 2008.