

CONFERENCE SUMMARY

DOMESTIC ABUSE IN A NEW IMMIGRATION LANDSCAPE

The challenges facing migrant
victim-survivors of domestic
abuse

THE CITY
LAW SCHOOL

CITY ST GEORGE'S
UNIVERSITY OF LONDON

RIGHTS *of*
WOMEN

Domestic abuse in a new immigration landscape: The challenges facing migrant victim-survivors of domestic abuse

This paper is intended as a short introduction to the challenges facing migrant victim-survivors of domestic abuse, for women navigating the immigration system in England and Wales and frontline professionals who support them. It summarises the themes discussed at the conference on 'Domestic abuse in a new immigration landscape', organised by Dr Adrienne Yong, Senior Lecturer in Law at City St George's, University of London[1], on 16 April 2024.

Produced by:

Jasbindar Bhatoa and Jessye Berkowitz-Werner (Rights of Women)
Ivanka Karaivanova and Dr Adrienne Yong (City St George's, University of London)

[1]The conference was supported by City's Violence and Society Centre and funded by City, University of London's Research Impact Fund, and the Society of Legal Scholars (SLS) Research Activities Fund.



**THE CITY
LAW SCHOOL**

CITY ST GEORGE'S
UNIVERSITY OF LONDON

RIGHTS of
WOMEN

INTRODUCTION

Over the past ten years, immigration law and policy has become more and more complex. The conference brought together academics and professionals from the Violence Against Women and Girls (VAWG) sector to raise awareness of the challenges the new immigration landscape poses to migrant victim-survivors, and the work that has been led by 'by-and-for' organisations campaigning for migrant victim-survivors rights.

SPEAKERS

Dr Olumide Adisa

University of Suffolk & City's Violence and Society Centre

Dr Adisa's Government funded project, Project Safety Net+ included working with victim-survivors and practitioners and involved an economic-cost benefit of analysis of the situation facing migrant victims-survivors. It identified that the main barrier for migrant victims of support was the no recourse to public funds (NRPF) condition on their visas, preventing them from accessing the necessary financial support and accommodation to flee an abusive relationship.

Dr Adisa suggested a systems approach to improving systems of support, to show how we need to identify interactions, interdependencies, and complexities in the system, otherwise we will be promoting a siloed approach. This systems approach represents a different way of dealing with a long-existing problem.



Figure 1. Nested systems of support for migrant victim-survivors.

Source: Olumide Adisa, Joana Ferreira, Margaret Hill, Lisa Pack, 'Promoting Better Outcomes for Migrant Victim-Survivors Through Community-Based Systems Interactions and Levers of Change' in Olumide Adisa and Emma Bond (eds), *Tackling Domestic Abuse and Sexual Violence: A Systems Approach* (Palgrave 2024) 55. Based on Urie Bronfenbrenner, *The ecology of human development* (Harvard University Press 1979).

SPEAKERS

Professor Sundari Anitha

University of Sheffield

Professor Anitha spoke about her research on transnational marriage abandonment (TMA) which has spanned many years and about how the immigration rules have not recognised TMA as a form of abuse up until recently. This is despite the Family Courts recognition of TMA as a form of abuse and incorporation into their practice direction 12J in October 2007. Prior to TMA being introduced into the rules, a migrant woman lost her protection and rights as soon as she left the UK. Professor Anitha noted that it had become common practice over the years for perpetrators to use a woman's immigration status as a means of control and had been advocating for this to be recognised as a form of abuse.

SPEAKERS

Dr Catherine Briddick

University of Oxford

Dr Briddick highlighted the fact that although there is protection in the immigration rules for victims of domestic abuse, it is only available to a narrow group of victims. Superficially there is protection available in the form of the Migrant Victims of Domestic Abuse Concession (MVDAC) and Appendix Victim of Domestic Abuse (VDA), but in reality immigration law discriminates against women. Immigration status is often used as a weapon of abuse against migrant victim-survivors. Dr Briddick also spoke about how discrimination law has been used in the past to challenge the domestic violence rule and the concession, with mixed success.

Dr Briddick argued that the position of all victims of violence would be improved by the full application of the Istanbul Convention, ratified by the UK in July 2022. However, the last UK Government had decided to place a reservation on article 59 which means that they are not under any obligation to grant status to women migrant victim-survivors who are dependent on their partners for their status. This reservation notwithstanding, one could argue that current UK immigration law and policy is in breach of article 4(3) of the Convention. This article prohibits discrimination on any grounds including migrant and refugee status for women who have experienced violence.

SPEAKERS

Asmita Sood

Southall Black Sisters (SBS)

Ms Sood described the hostile environment policies as being established to make life difficult for migrants, denying them the right to work, access the NHS, public funds and renting properties. The practice of data sharing between government departments was also seen as hostile to migrants. Ms Sood spoke about the consequences of the no recourse to public funds policy and how this made victim-survivors of abuse vulnerable to exploitation, homelessness and destitution with the fear of deportation when data was shared between agencies. She revealed the alarming statistic that women subject to the NRPF condition were 3 times more likely to be subjected to VAWG than the wider population of women.[2]

Ms Sood also mentioned her concerns about the Government's reasons for implementing a reservation on article 59 of the Istanbul Convention. The previous UK government said that it was a temporary measure whilst they evaluated the Support for Migrant Victim (SMV) pilot, which had been delivered by SBS since April 2021. This reasoning was flawed because the SMV pilot was assessing the impact of support to victims and not the impact of providing status. SBS's experience showed that migrant victim-survivors need both the right to settlement and public funds in order to come forward and be safe.

[2] See generally, Ravi K Thiara, 'Safe and Secure: The No Recourse Fund' (Southall Black Sisters, January 2023) <<https://southallblacksisters.org.uk/app/uploads/2023/01/safe-secure-report.pdf>> accessed 31 August 2024.

SPEAKERS

Maria Alvarez

Latin American Women's Rights Service (LAWRS)

Ms Alvarez spoke about the 'Step Up Migrant Women's Campaign' (SUMW) which recognised the intersectional discrimination faced by migrant women experiencing domestic abuse on grounds of race, gender, immigration status and sex and the barriers they face in accessing support and protection on fleeing the perpetrator of abuse. The main purpose of SUMW was to influence the Government to separate immigration enforcement from safe reporting of crime.

Ms Alvarez also acknowledged that insecure immigration status is often used as a tool, by perpetrators, to control migrant victim-survivors and threaten them with deportation. She referenced Imkaan statistics[3] and noted that the establishment of safe reporting mechanisms is an essential step forward to improve crime reporting. The SUMV seeks to influence the negative narrative surrounding migrants to protect migrant victims of domestic abuse. Ms Alvarez referenced LAWRS' 'The Right to be Believed Report'[4] which identified key barriers to victim-survivors of domestic abuse in seeking protection and safety. It revealed that the most cited fear for not reporting crimes to the police was fear of deportation. It is disturbing that the hostile environment is being used by perpetrators to trap victim-survivors.

[3] See generally, Ravi K Thiara, 'Safe and Secure: The No Recourse Fund' (Southall Black Sisters, January 2023) <<https://southallblacksisters.org.uk/app/uploads/2023/01/safe-secure-report.pdf>> accessed 31 August 2024.

[4] Cathy McIlwaine, Lucila Granada, and Illary Valenzuela-Oblitas, 'The Right to Be Believed Report' (Step Up Migrant Women, May 2019) <<https://stepupmigrantwomen.org/wp-content/uploads/2019/05/the-right-to-be-believed-key-findings-final-1.pdf>> accessed 31 August 2024.

SPEAKERS

Ms Alvarez referred to the fact that the Equalities and Human Rights Commission (EHRC) had recommended an end to data sharing to ensure compliance with the Istanbul Convention and the outcome of the super complaint against the police initiated by Liberty and SBS, which found that significant harm was being caused by data sharing to victim survivors and to the public interest.

Yet despite these findings, the Government have not ended data sharing. The Home Office have justified data sharing in the name of safeguarding. The VAWG sector are concerned that women victim-survivors' fundamental human rights are being breached due to the negative consequences of data sharing.

LAWRS is also campaigning to include a firewall between immigration enforcement and safe reporting into the Victims and Prisoner's Bill. This bill which was introduced in March 2023 seeks to improve victims' experiences and access to support and justice. This will only be achieved when migrant women are afforded the same protection and support as non-migrant victim-survivors of abuse.

For more information on the speakers and their presentations, please see [here](#).

ROUNDTABLE DISCUSSION: “A COMMUNITY OF PRACTICE”

The roundtable was intended as the first step in establishing a community of practice, a membership of interested parties of professionals and academics that are committed to seeking better protection of migrant victim-survivors of domestic abuse in England & Wales in this new immigration landscape.

The roundtable included academics, lawyers and frontline professionals supporting migrant victim-survivors of domestic abuse who discussed the work led by by-and-for organisations to help get safety, justice and protection for migrant victim-survivors of domestic abuse.

The roundtable members considered the overarching practical issues around messaging, discriminating against migrants and staying safe in the community, access to housing and legal assistance, funding and wider support for the third sector, among others.

Below is a summary of the some of the challenges and solutions to support migrant victim-survivors of domestic abuse.

Current legal protections for migrant victim-survivors and their failings

The Migrant Victims of Domestic Abuse Concession (MVDAC) is a concession which gives an applicant 3 months leave outside the rules in order to leave an abusive relationship and to claim status independently of the perpetrator.

Appendix Victim of Domestic Abuse (VDA) are the rules that enable some migrant victim-survivors of abuse to apply for indefinite

ROUNDTABLE DISCUSSION: “A COMMUNITY OF PRACTICE”

leave/settlement when their relationships have broken down permanently due to domestic abuse albeit only when they have a specified sponsor, i.e. a British or settled sponsor.

There is also provision in the immigration rules for other vulnerable groups to apply for permission to stay, such as: asylum for women experiencing gender-based violence, victims of modern slavery and trafficking, and domestic workers experiencing exploitation from their employers.

However, since the MVDAC replaced the Destitution Domestic Abuse Concession (DDVC) on 16th February 2024, **the MVDAC and Appendix VDA are no longer linked which means that there are some victim-survivors of domestic abuse that are eligible for the MVDAC but not for indefinite leave under Appendix VDA.** This creates a cliff-edge when the concession ends.

It's also significant that a MVDAC concession holder will be prevented from applying for further permission to stay under work routes because they will not meet the validity requirements at the point the concession is granted.

Children are also now included in the rules but are required to meet maintenance and accommodation requirements. The consequence of this rule change means that children could be refused indefinite leave if the parent they live with is claiming benefits for the family. It is a serious cause of concern that these new rules could potentially leave some children without any status.

ROUNDTABLE DISCUSSION: "A COMMUNITY OF PRACTICE"

Additionally, asylum rights have been diminished by legislation such as the **Nationality and Borders Act 2022** which makes it much more difficult to be recognised as a victim of gender-based violence and modern slavery.

Best practice and processing for migrant victim-survivors

The Home Office have a **dedicated department** that processes the MVAC and Appendix VDA case **processing times are prioritised**.

Discretion can be exercised in favour of victim-survivors if they do not meet the criteria for indefinite leave under Appendix VDA. This may be perceived as beneficial, but we will have to wait and see if and how discretion is exercised.

Linking the MVDAC to Appendix VDA would be best practice and would also clear any confusion that had been created because the two have been delinked.

The VAWG sector, in particular LAWRS and their Step Up Migrant Women campaign, have been campaigning for a **firewall between immigration enforcement and safe reporting of crimes**. We heard from roundtable participants that a few areas had established local firewalls. A national roll out of a firewall would help to protect migrant women. The fact that victims of transnational marriage abandonment were protected under Appendix VDA was also applauded as lawyers had previously been relying on Home Office discretion to bring these women back to the UK.

ROUNDTABLE DISCUSSION: "A COMMUNITY OF PRACTICE"

Best practice would include enabling victim-survivors to apply to remain in the country on all bases that apply to them and not have to pick and choose a rule to apply under i.e. should they be applying as a victim of domestic abuse or as a parent of a child in the UK? Appendix VDA applications are usually refused due to lack of evidence of domestic abuse.

Appeal rights for those refused settlement under the Appendix VDA should also be reinstated as giving oral evidence can be beneficial for those describing non-physical violence which is generally less well understood.

Immigration practices and racism and the use of immigration status as a means of control

The reality is that, by default, UK immigration laws and policies discriminate against women and girls experiencing domestic abuse.

There remains a **culture of disbelief within the UK Home Office**, despite the previous Government's promises to rebuild the trust of migrants by committing to culture change after the Windrush Scandal.

The intersections of race and gender when combined with immigration status means that **migrant women victim-survivors exclusively experience perpetrators using their immigration status as a tool to control them**, intensifying the power imbalances that already exist between perpetrator and the victim-survivor. This form of coercive control is not always understood by Home Office decision makers and statutory agencies.

ROUNDTABLE DISCUSSION: "A COMMUNITY OF PRACTICE"

Examples of discrimination within the immigration system:

- In the aftermath of Brexit, we have seen a new emerging form of racism where Eastern Europeans are being excluded from the category of 'White Europeans'.
- A proliferation of non-migrant women from Black and minoritised communities being forced to marry men from Asian communities and then being subjected to domestic abuse when their partners arrive from their countries of nationality. This is a peculiar phenomenon as these women are British and have recourse to public funds and support from the Government. However, they are being grouped into the same categories as migrant victim survivors even though they have status in the UK. Statutory agencies often deny these women support under the pretext that they have jobs and/or properties without fully assessing their specific needs. Strikingly, statutory services, in some cases have automatically assumed that Asian women presenting themselves as victim-survivors of abuse are migrants and many of them are advised to return to their country even though they are British citizens.
- Women deciding to stay in their neighbourhood for a variety of reasons including community ties, family, schools, friends and medical support are denied support for making this choice and told that they cannot be helped as they have made a decision to remain in the danger zone.

ROUNDTABLE DISCUSSION: “A COMMUNITY OF PRACTICE”

Welcome and unwelcome messaging about migrant victim-survivors

Public narratives about migrants are generally negative and can spread harmful and divisive misinformation. For example, there is a presumption that single migrant women and asylum seekers are living in luxurious accommodation provided by the state and receive huge sums of money to live on when this is not the case. Asylum seekers receive around £7 a day and they are not generally allowed to work. Accurate messaging through appropriate channels can help to dispel the negative narrative around migrants which has been fuelled by the last conservative Government, the media and social media. Highlighting the intersecting oppressions migrant-women face, such as violence against women, may be an approach to challenge harmful narratives.

Successful collaborative approaches to campaigning were exemplified by a recent VAWG shadow report to GREVIO, signed by 58 organisations. GREVIO is the independent expert body responsible for monitoring the implementation of the Istanbul Convention. GREVIO publish reports evaluating legislative and other measures taken by the Parties to give effects to the provisions of the Convention.

The importance of access to legal information

It is difficult to ascertain sources of accurate information for migrant women. The Home Office website can be difficult to navigate if you are not familiar with it. Accessible legal information such as Rights of Women’s legal guides^[5] is important for those women who are unable

[5] Rights of Women, ‘Online legal guides’ <<https://rightsofwomen.org.uk/get-advice/read-our-legal-guides/>> accessed 31 August 2024.

ROUNDTABLE DISCUSSION: “A COMMUNITY OF PRACTICE”

to access legal aid or early legal advice to help them navigate immigration law and processes.

Additionally, access to information in the early stages of a relationship before any abuse has taken place could prevent escalation. A coordinated approach with the Government and VAWG sector to implement strategies on delivering information effectively to migrant women is required.

Trauma informed approaches to supporting migrant women

It is important to take a trauma-informed approach when supporting migrant women victim-survivors and providing them with safe spaces to tell their stories. Some may require referrals to mental health services or other therapeutic services, and access to alternative methods such as drama classes.

Breaking barriers to financial support and accommodation

The main barrier for migrant victim-survivors fleeing abusive relationship is their **fear that they would not be able to support themselves and their children** without the support of the perpetrator. Economic abuse is used by perpetrators to ensure that their abused partners are financially dependent on them and therefore trapped.

Victim-survivors understood their position to be precarious and felt trapped in their relationships because their visas state that they were

ROUNDTABLE DISCUSSION: “A COMMUNITY OF PRACTICE”

prohibited from accessing public funds. **The NRPF condition is the main barrier preventing women from fleeing abusive relationships.**

A further challenge is that **women who are on spouse partner visas are unaware that they can change their status to enable them to access public funds and safe accommodation.** The difficulty is that not all migrant victim survivors are able to have this condition lifted, leaving them without adequate financial support to meet their living and accommodation needs.

Women fleeing abusive relationship with visas in their own right, such as students, are expected to support themselves and will not receive state support. This can be problematic when they are not able to work or study due to trauma. The recent cost of living crisis has only exacerbated the problem.

Access to justice through the law

The legal aid sector has seen a **year-on-year erosion of legal aid** since the introduction of the Legal Aid Sentencing and Punishment of Offenders Act 2012 (LASPO) in April 2013. The legal aid system is in urgent need of reform, and the consequences of inaction on part of the Government doesn't bear thinking about.

Many victim-survivor applicants on spouse or partner visas are theoretically in scope of legal aid but in reality, are unable to access it. This is because **there are insufficient legal aid providers in England and Wales**, and those who do have legal aid contracts often turn women away citing capacity as a reason for not taking on their cases.

ROUNDTABLE DISCUSSION: "A COMMUNITY OF PRACTICE"

This is important because women who do not receive early legal advice are more likely to stay with the abuser, if they are economically dependent on them. They may be persuaded to seek representation from unscrupulous advisers who are quoting less fees than other lawyers and who are not regulated to provide immigration advice, or they may decide to take their chances and remain with the perpetrator in the hope that the perpetrator will help them to secure their status. They may not be aware that there is a legal aid system and if they are aware they may not know if they qualify for legal aid and how to find a legal aid lawyer.

Despite the VAWG sector providing a strong coordinated community approach to delivering protection for migrant women, providing legal support themselves or making connections with lawyers whom they regularly use for their clients, the fact of the matter is that they are not able to support or refer all migrant women victim-survivors. As a result, these women are left to navigate complex immigration law and processes on their own. **Without legal advice, many women decide not to take any action at all risking immigration enforcement.**

Ideally, a successful referral would be to a legal aid contractor who understands VAWG issues. **There are some lawyers who have a good grasp of immigration law but are not familiar with VAWG,** particularly as regards coercive control and the negative impact of this form of abuse on the victim survivor and any children. This could result in ineffective legal representations with the VAWG aspects being omitted.

Additionally, **perpetrators will often try to use the law to deny the victim protection and support even after separation.** They may accuse the victim survivor of parental alienation or use family orders such as prohibited steps orders to prevent the child from leaving the UK, i.e. to

ROUNDTABLE DISCUSSION: “A COMMUNITY OF PRACTICE”

visit maternal grandparents that the child has a strong bond with. The child could be denied contact with maternal grandparents for many years. **Immigration lawyers need to be alert to the fact that coercive control can continue for many years after the victim-survivor and perpetrator separate.**

Challenges facing the ‘by and for’ sector

Migrant victim-survivors of abuse require specialist support from the ‘by and for’ sector and not generic VAWG services for a variety of reasons including understanding of cultural norms, language and experience of supporting migrant women experiencing intersectional discrimination.

The VAWG ‘by-and-for’ sector has been advocating for more funding because **they are unable to sustain their services without ring-fenced funding** and are having to turn vulnerable women away from their services and or provide reduced services. There needs to be funding streams open to smaller ‘by and for’ specialist organisations, because they are less likely to be successful when competing for funding with the larger generic VAWG organisations. This has been evidenced by the larger VAWG organisations encroaching on the funding opportunities of the smaller specialist ‘by-and-for’ organisations, i.e. tendering for funds in the field of ‘harmful practices’ of which the larger VAWG organisations have little expertise in.

Independent Domestic Violence Advisers (IDVAs) and Domestic Violence (DV) professionals work in this sector because they are committed and passionate about supporting victim-survivors. These posts involve

ROUNDTABLE DISCUSSION: “A COMMUNITY OF PRACTICE”

working long unsociable hours and can take their toll on staff. This is evidenced by the practical problems reported by the organisations of **high turnover of IDVAs and DV professionals** who are unable to sustain their stressful work environments.

There were suggestions amongst the roundtables that the VAWG charity sector should be make better use of their unions, at the least, agree on national scales of the salaries and the provision of wider social support for their workers, including mental health care.

NEXT STEPS

Discussions are underway to host a follow up iteration of the day's proceedings in 2025. If you are a researcher, an academic, a practitioner or part of an organisation working in the area of DV and immigration law and you are interested in joining the community of practice, please get in touch with **Dr Adrienne Yong** (adrienne.yong@city.ac.uk) to express your interest.