

# 'NO RECOURSE' NO SAFETY

The Government's failure to protect  
women from violence



Amnesty International  
Southall Black Sisters

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ISBN 978-1-873328-69-9

£4.99

Published by Amnesty International UK and Southall Black Sisters

© Amnesty International UK, March 2008

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**Amnesty International** is a movement of ordinary people from across the world standing up for humanity and human rights. Our purpose is to protect individuals wherever justice, fairness, freedom and truth are denied. Amnesty International has 267,000 supporters in the UK. Our vision is of a world in which every person enjoys all the human rights enshrined in the Universal Declaration of Human Rights and other international human rights instruments. 2008 is the 60th anniversary of the Universal Declaration of Human Rights, and provides an important opportunity to renew energy to achieving this vision.

**Southall Black Sisters** is a not-for-profit organisation, established in 1979 to meet the needs of black (Asian and African-Caribbean) women. Our aims are to highlight and challenge violence against women; empower them to gain more control over their lives; live without fear of gender based violence; and assert their human rights to justice, equality and freedom. For more than two decades Southall Black Sisters have been at the forefront of challenging domestic and gender violence locally and nationally, and campaigning for the provision of support services to enable women and their children to escape violent relationships.

# ACKNOWLEDGEMENTS

This report is based on interviews and research carried out by Amnesty International UK between August 2007 and January 2008, and drawing on the long-standing research, campaigning and lobbying of the specialist women's organisation Southall Black Sisters.

For years, organisations providing protection and support for women fleeing gender based violence have keenly felt the impact of the 'no recourse to public funds requirement' on women with insecure immigration status. Southall Black Sisters began raising awareness of this in 1992, and has concentrated its efforts over the last 15 years on finding ways to support women trapped by this requirement and campaigning for change.

Southall Black Sisters coordinates a coalition of organisations working to highlight the devastating impact of this restriction on access to public funds on a particularly vulnerable group of women. The coalition includes Amnesty International UK, Central Manchester Women's Aid, Greater London Domestic Violence Project, Imkaan, Kalayaan, Newham Asian Women's Project, Poppy Project (Eaves Housing for Women), Refuge, Roshni Asian Women's Resource Centre (Sheffield), Roshni Women's Aid (Nottingham), Soroptimist International (Rugby), South Manchester Law Centre, Women's Aid (England), and the Women's Resource Centre.

Amnesty International UK and Southall Black Sisters thank the organisations and individuals from England, Wales, Northern Ireland and Scotland who have shared their experiences through interviews and supported the production of this report with their expertise. These include: Roshni Women's Aid Nottingham, Hadhari Nari Derby, Refuge Derby, Bradford Women's Aid, IMKAAN, Latin American Women's Aid, Cardiff Women's Aid, Welsh Women's Aid, Henna Foundation, BAWSO, Northern Ireland Women's Aid, Refuge, Ashiana Sheffield, Scottish Women's Aid, Shakti Women's Aid, Women's Aid Federation England, Kalayaan, Roshni Birmingham, Saheli Manchester, Helmat Gryffe Glasgow, Leeds Women's Aid, the End Violence Against Women Campaign.

Because of the fear and risks they face, the author has concealed the identities and locations of some of the women whose cases are highlighted in this report.

# NO RECOURSE, NO SAFETY SUMMARY

Violence against women is a global outrage rooted in discrimination and inequality. The experience or threat of it affects the lives of women everywhere. It is not confined to any particular political or economic system, but is prevalent in every society in the world and cuts across boundaries of wealth, race and culture. Governments are obliged under international human rights law to prevent gender based violence and to respond to it when it occurs by ensuring victims' access to safety and reparation.

The critical importance of safe refuge for women survivors of violence is widely acknowledged. Yet it is a shocking fact that in the UK some women in desperate need of safety cannot access basic levels of protection and support<sup>1</sup>, simply because of their immigration status. These women are either left trapped in violence, in fear for their lives and often for the well being of their children, or face destitution if they flee.

## CASE SABIA RANI

Sabia Rani, 19, was murdered by her husband Shazad Khan in May 2006, following three months of beatings and physical abuse at his family's home in Oakwood, Leeds. Sabia had arrived in the UK from Pakistan only months earlier. On 5 February 2008, four members of Khan's family were found guilty of allowing the death of a vulnerable adult under the Domestic Violence Crime and Victims Act 2004.

Malcolm Taylor of CPS West Yorkshire's Complex Casework Unit said: 'Sabia Rani was the victim of horrific violence at the hands of her husband whilst her family, as the jury found, chose to do nothing to help her.'<sup>2</sup>

Although Sabia Rani's murder was a result of the most extreme violence, the circumstances surrounding her arrival and stay in the UK, and the suffering and isolation she experienced, are not dissimilar to the circumstances of the women highlighted in this report.

Sabia had married Khan in December 2002, but it was not until three years later that she came to England. She spoke no English when she arrived in Leeds as Khan's bride, five months before her death in May, 2006. She was kept prisoner in the house, and was not allowed out unaccompanied. What happened to Sabia illustrates the vulnerability of women in these situations and of the critical importance of protection and safe accommodation. It also illustrates the risks facing women who are not able to escape to safety.

During the months of violence that led to her death, had there been just one moment during which Sabia could have escaped, she would have had nowhere to go. While women in similar situations may go to the Police, or a refuge or similar organisation, because of her immigration status and the no recourse to public funds requirement, she would not have been guaranteed a place of safety in a refuge.

Knowing that there is a safe place to go, and that they will have the means to survive, is critical to women at risk of gender based violence. It takes courage and support for a women to decide to leave a violent partner or a violent situation such as trafficking<sup>3</sup> What will happen to them when they leave is central to their decision. The very point at which a woman leaves is widely recognised as a key moment of risk. Support and protection at these times is essential so that she can regain her strength, stop being afraid, recover from the abuse of her human rights, and move forward with her life.

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 private life'.

The 1993 UN Declaration on Violence Against Women



## THE NO RECOURSE TO PUBLIC FUNDS REQUIREMENT

The no recourse to public funds requirement applies to people with an insecure immigration status, and is a condition attached to their stay. 'Public funds' in immigration rules describes those welfare benefits which applicants need to show they will not claim.<sup>6</sup> Those subject to the requirement cannot claim most social security benefits or housing under the Housing Act 1996 or the Housing Act 1985, the Housing (Scotland) Act 1987, the Housing (Northern Ireland) Order 1981 or the Housing (Northern Ireland) Order 1988. In addition to housing, 'public funds' includes benefits under the Social Security Contribution and Benefits Act 1992:

- attendance allowance
- severe disablement allowance
- carer's allowance and disability living
- income support, council tax benefit and housing benefit
- a social fund payment
- child benefit
- income based jobseeker's allowance under the Jobseekers Act 1995
- state pension credit under the State Pension Credit Act 2002
- child tax credit and working tax credit under Part 1 of the Tax Credits Act 2002.

The term 'insecure immigration status' in this report refers to women who do not have indefinite leave to remain. They may well be in the UK legally on spousal visas, work visas, student visas or other temporary visas. They may also be classed as being here illegally having been trafficked into the UK, or having over-stayed their visa.

Women in situations of violence who do not have indefinite leave to remain will be able to pursue applications for indefinite leave for example, under the Domestic Violence Rule, but during the time any immigration applications are being made, and until they are granted leave to remain, they have 'no recourse to public funds'.

**'We rely on food parcels, donations of clothes, pushchairs – all from charity. It's as if they're not human enough to have basic human needs – food, shelter, clothes, they can't even get that.'**

Interview with outreach worker - October 2007

This report focuses on the desperate circumstances of women who have 'no recourse to public funds' because they have insecure immigration status (ie they are not UK residents). They cannot access any form of emergency accommodation including refuges because they are not able to claim housing benefit or income support. UK refuges require their residents to cover their living and accommodation costs - either through private income or through housing benefit and income support. These organisations are being put in an unacceptable position where they cannot take in women they know to be in danger.

The Government recognises that women leaving violence ought to have access to safe accommodation, but it believes that '[I]n order to protect the integrity of the immigration and benefit rules'<sup>4</sup> it is necessary to keep the no recourse to public funds requirement<sup>5</sup> in place. This is having a devastating impact on a group of particularly vulnerable women who, because they are not able to access support or refuge, face a stark choice - either to stay trapped in a violent situation or become homeless and destitute.

By failing to guarantee such women access to safe accommodation, the Government is in breach of its obligation to ensure the respect and protection of the human rights of all persons within its jurisdiction.

Gender based violence is a fundamental abuse of women's human rights. As such, governments have a clear responsibility under international human rights law to act with **due diligence**, that is with **appropriate effort, care and effectiveness**, to ensure that a woman's right to live free from the threat and reality of violence and discrimination is upheld, and to ensure women have access to effective remedies and reparation. Numerous international human rights treaties detail the rights of women to live free from discrimination, including acts of violence or the threat of violence. These treaties require States to respect, protect and fulfil all human rights contained within them.<sup>8</sup> Importantly, '[T]he obligation to fulfil requires the State to take all measures necessary to ensure, for each person within its jurisdiction'<sup>9</sup> the ability to access their human rights.

Where States have not acted with due diligence, they can now be held responsible for the rights that have been violated even where the perpetrator is a private individual if there has been a 'lack of due diligence to prevent the violation or respond to it'.<sup>10</sup> Amnesty International and Southall Black Sisters are concerned that despite advances in the UK to provide better protection and support for women who have experienced or who are at risk of violence, these advances have not been extended to *all* women in the UK.

**Countries other than the UK who have the same international obligations have responded differently to the challenges of protecting women's human rights by ensuring that women with insecure immigration status can access protection and support. For example, the USA, Canada and Austria have found ways in which to ensure women with insecure immigration status can access emergency protection and support. (See page 27).**

This report concentrates on a small but significant group of the total number of women across the UK who flee gender based violence each year. We feel that due to their extreme vulnerability this situation demands immediate action.

Specifically, we recommend that the Government acts immediately to ensure that *all* women experiencing or at risk of gender based violence within the UK have access to essential and life-saving support services, regardless of their immigration status, through **exempting women fleeing violence from the 'no recourse to public funds requirement'**.

Amnesty International and Southall Black Sisters also recommend that the Government put in place immediate measures to ensure women can access the funds necessary to guarantee safe accommodation and support should they need it.

**The position of women of uncertain immigration status 'without recourse to public funds' who are suffering domestic violence remains desperate. The government appears to be in breach of Article 2 of the Human Rights Convention in providing these women with no access to funding should they need to leave a violent relationship.**

Womankind shadow report to CEDAW, p11

## WANTED: A STRATEGY TO PROTECT ALL WOMEN

Amnesty International UK and Southall Black Sisters believe that in large part the failure to protect these vulnerable women is because the Government has neglected to implement its commitment, under the 1995 UN Beijing Platform for Action, to develop an integrated and strategic approach to ending violence against women in all its forms. This would have highlighted such glaring gaps in protection and support, and could provide a framework to ensure that all women at risk of gender based violence would have the right to escape violence and to access services.

AIUK and SBS are members of the End Violence Against Women Coalition campaigning for the Government to develop and implement an integrated and strategic approach to end violence against women in all its forms.

Of the devolved governments, only the Scottish Government (formerly the Scottish Executive) has developed a Violence Against Women Strategy with the aim of improving responses and delivering integrated services. Unfortunately the implementation of the strategy is impeded in relation to women with uncertain immigration status because immigration and benefit matters are decided retained Westminster - in particular the 'no recourse to public funding requirement'.<sup>7</sup>



## WE CAN'T HELP YOU 'NO RECOURSE' – NO SAFETY



The continued existence of violence against women is one of the major obstacles to securing women's human rights. It impacts on a woman's right to life, physical and mental integrity, and the right to be free from torture, inhuman and degrading treatment, among others.<sup>11</sup>

The women discussed in this report face gender based violence in this country, often at the hands of partners and family who are UK citizens or who have residents rights, including spouses or family members who are the women's 'sponsors', as well as at the hands of employers and strangers. The multiple forms of violence and abuse that these women, and others, face include:

- Rape by partners, family members and strangers
- Forced prostitution
- Forced abortion
- Female Genital Mutilation
- Attempts on their lives, including through immolation
- Severe beatings
- Sexual assault
- Daily beatings and insults
- Starvation and neglect
- Emotional abuse and control
- Threats of violence against them, their families or their children
- Isolation and false imprisonment
- Financial control and exploitation
- Dowry related abuse
- Threats of separation from children
- Threats of deportation from the UK
- Retention of essential documents

These women suffer gender based violence within the jurisdiction of the Government, and should therefore be afforded the same protection and support as all other women.

Women fleeing such violence are in desperate circumstances – they need emergency accommodation, support and protection. Those subject to the 'no recourse to public funds requirement' have no right to access Local Authority housing or the main welfare benefits including income support. Yet, in order to access a place in a refuge, women with no personal financial means need to claim housing benefit to cover the costs of their safe accommodation. They also need to claim income support to provide the basic means to live. Some women may have the right to work, such as spouses and domestic workers, but due to the trauma they have suffered, often having to relocate, possibly with children and with language difficulties, those who are permitted to work may not be able to find work immediately.

Women with no recourse to public funds include those who entered the UK on valid visas as spouses, students, visitors or workers, women and girls whose visas have expired and who are therefore classified as over-stayers, and women and girls who have been trafficked into the UK. They also include women and girls from European Union accession countries, who are also restricted in their ability to access public funds if they have been in the country less than a year, or if they are not registered under the workers registration scheme.

There has been no comprehensive UK-wide research into the numbers of women fleeing gender based violence who are affected by the no recourse to public funding requirement. However, national research carried out by Southall Black Sisters indicates a consistent level of about 600 domestic violence cases a year. However, it is believed there may be up to 1,000 cases a year – with many going unreported because of the difficulties women face in seeking help.

Preliminary findings from a report by Imkaan, a specialist domestic violence organisation supporting Asian women and children, suggest that in a two-year period in London alone there were 537 applications from women - 47 of whom had children - who were refused access to emergency housing and support.<sup>12</sup>

The following information only gives an indication of the numbers of women who are affected and the impact on service-providers:

- In their 2006 Resource Pack entitled 'How Can I Help Her?' Southall Black Sisters estimated that there are 600 women in the UK with insecure immigration status facing violence from their spouse per year.
- In February 2007 Scottish Women's Aid found that on average 1 per cent of inquiries received by their groups concerned women with no recourse to public funding<sup>13</sup>.
- Welsh Women's Aid conducted an ad hoc survey amongst its group members in 2007 and found that 2 per cent of all women in refuges had no recourse to public funds.
- In 2003 the Home Office estimated that 4,000 women in the UK were victims of trafficking for sexual exploitation.
- Kalayaan<sup>14</sup> received inquiries from 387 Domestic Workers suffering abuse at the hands of their employers and their families in the financial period between 2005 and 2006.
- Between April 2006 and March 2007, BAWSO in Wales (Black Association of Women Step Out) supported 77 women with no recourse to public funds. Of the 77 referred, Bawso could only accommodate 12 women in their refuges. The other 65 women were offered outreach support across Wales, although what they really needed was housing provision to allow them to leave the violence.
- Women's Aid refuges across Northern Ireland in 2006 provided accommodation for 72 women and 46 children, most of whom were European Union Accession 8 nationals.

The experience of domestic violence organisations also reveals that the point at which women try to flee violence can be the most dangerous. Women seeking help to escape violence are vulnerable, and access to support and refuge can, quite literally, save their lives.

During an interview in October 2006 in Wales, a young mother spoke in distressing detail of the levels of physical, sexual and mental abuse that she had suffered for four years from her husband.

### CASE

**'I never had information about how people could help me. All I knew was my husband, sometimes I went to the GP with him. I didn't tell about the abuse or ask if anyone could help me ... He always say to me that I was his property and he could do anything to me. I was dependent. I lost myself for 4 years.'**

This woman took the brave step of informing the police of the abuse she was suffering, and they responded with measures against the perpetrator. But the woman and her child had no alternative but to stay in the home where she was subjected to harassment and threats from her husband's friends.



'I asked people to take me out of the house because my life wasn't safe. I had lots of threatening calls from his family, leaving messages saying they would kill me. I was calling people to help me and they were saying no we cannot because you don't have, you know, no recourse. They said so sorry you have this problem we can't help you.'

'I didn't know where to go. The police officer gave me numbers and said try there. I begged for help - I went to one place, I was crying, I went on the floor and said that I need help. She tried everywhere to get some help, in social services because there was some act about children. I went there - lots of questions - and they said I don't know that we can help you, you don't have benefit. I said please someone who can help my situation where can I take my little one.'

'I lived for four days without food for me or my little one. They send us to hotel for one week, they said that I don't know after that. I was there one day or two days without food, after second day my baby is asking for food. I called social services saying that I need food my baby is hungry. They asked me to come down to social services it was so far away and I didn't know the area. I walked down, they gave me a letter saying I needed to go to Salvation Army and they would give me food. I walked a long time because I didn't know where it was. When I got the food it was food that I couldn't eat. It was cans and I can't eat cans, I don't have anything to open it. I called social services - they took 5-6 hours saying come to the office and we can give you £20.'

Eventually someone found this woman and her child a place in a refuge, but she does not know how long she will be able to stay because of the lack of funding.<sup>15</sup>

All women require protection in order to escape violence against them. They need to be able to approach Police and Social Services without fear of being left in the street, detained or removed to their country of origin - which can lead to other risks to their life or safety. They need to be able to get legal advice to help them get both protection against violence and advice on immigration and asylum laws and procedures. Above all, they require the rights that will entitle them to immediate safe accommodation and benefits, so they can leave an abusive situation in the first place. They need these rights whether or not they intend to make an application to stay in the UK or return to their country of origin.

Fundamental to tackling the human rights violations implicated in violence against women is the need to ensure women have a safe place to which to escape.<sup>16</sup> It is the reason that governments fund refuge spaces across the world, accepting that in order to properly protect women from violence they have to provide places of safety.

Under the current rules, the majority of women who have no recourse to public funds have no option but to remain with their abuser or to become destitute. By failing to provide protection, the Government is effectively violating their human rights as they are forced to remain in circumstances where they are at risk of further abuse.

### CASE PREVENTED FROM HELPING

'We are really concerned about a woman, let's call her Yasmin, who came to us a few months ago. Yasmin left her husband after months of violence, physical, psychological and sexual violence, she had attempted

suicide twice. We took her and her two children to the different council departments, including housing and social services, but they all said that they wouldn't help because she wasn't entitled. There was already a woman with no recourse to public funds staying at our refuge so we couldn't take her on and neither could anyone else. The housing department told us to take Yasmin to claim asylum, this is what we did but when we took her she was detained by the Home Office in Liverpool. They wouldn't listen to us about the support and help she needed and because we had no where else we didn't know what to do. We then lost touch with her, the mobile number she had no longer worked. Then at the beginning of this month [October 2007] we got a call from a man who claimed to be Yasmin's husband, seemingly she had gone back to him, but has fled again with the two children. No one knows where she is and we are really worried about her. We knew that Yasmin and her children were at risk but we were stopped from helping.'

Interview with refuge worker, 19 October 2007

Governments have a clear responsibility under international human rights law to act with due diligence, that is with appropriate effort, care and effectiveness, to ensure that a woman's right to live free from the threat and reality of gender based violence and discrimination is upheld. States are required to respect, protect and fulfil all human rights contained within international human rights treaties.<sup>17</sup>

Importantly, '[T]he obligation to fulfil requires the State to take all measures necessary to ensure, for each person within its jurisdiction'<sup>18</sup> the ability to access their human rights. This should include ensuring that women have access to support services that allow them to leave violent situations and access to effective remedies and reparation.

Amnesty International and Southall Black Sisters are concerned that not all women in the UK who have experienced or who are at risk of violence have the same access to protection and support. The rights of these women are at further risk because of the impact of the no recourse to public funds requirement. In excluding a vulnerable group of women from claiming the benefits they need to access safe accommodation and support, the Government is failing to respect its obligation under international human rights law to act with *due diligence* to respect, protect and fulfil the rights of this vulnerable group of women.

# RULES THAT MISS THE HUMAN DIMENSION GOVERNMENT RESPONSES TO VIOLENCE AGAINST WOMEN

'I was a primary teacher in Pakistan and made a love match with my husband. I don't understand why he married me though if he was going to mistreat me and discard me. My life is ruined now, I have no one, no family at all. My family in Pakistan have disowned me. I have a child and my life is now [the child's], I have nothing. He should never have married me. I am different to the girl I was in Pakistan, my life is in ruins.'

Interview with refuge provider  
October 2007



## 1. Government policy and practice

In the last decade in the UK, progress has been made in responding to violence against women, most notably domestic violence. Initiatives to improve services, legislation and protection for women, include the introduction of the Domestic Violence Rule, Domestic Violence Courts and Sexual Assault Referral Centres. In November 2007 the Government also announced measures to tackle the extremely low conviction rate of 5.6 per cent in rape cases. There has undoubtedly been an increase in awareness and concern for violence against women, but the Government is failing to respect, protect and fulfil the rights of women who have insecure immigration status.

This failure compromises the Government's stated commitment to tackling violence against women. The current Government emphasis on addressing the needs of black, ethnic minority and refugee (BMER) women, for example through initiatives to tackle 'honour' based violence, is undermined when women affected by such forms of violence are excluded from obtaining adequate protection due to their immigration status.

In 1999 the Government recognised the need to address the fact that women with insecure status are trapped in abusive marriages because they are unable to return to their countries of origin due to their changed marital status. Often such women face isolation, ostracisation and persecution because they are divorced, separated or single parents. After much campaigning by Southall Black Sisters and others, the Government introduced the Domestic Violence Concession which became the Domestic Violence Rule in 2002.<sup>19</sup> Under the Domestic Violence Rule, a woman who is a spouse or long-term partner of a British national or someone who is settled here can apply to stay in the UK permanently if their relationship breaks down during the two-year probationary period and if she can prove that domestic violence was the cause. Yet at the same time the failure to reform or abolish 'the no recourse to public funds requirement' has continued to have the effect of preventing women from accessing safety and protection. This effectively traps women in a cycle of abuse or forces them into a cycle of destitution and has severe consequences for the women concerned, their children and those trying to support them.

In the 2003 consultation paper on domestic violence 'Safety and Justice', the Government recognised that victims subject to immigration control face particular difficulties in seeking help. However, the paper went on to state that 'in order to protect the integrity of the immigration and benefit rules, the Government is not persuaded that victims making applications under the Domestic Violence Rule should have access to social security benefits'.

Paul Rowen, the Liberal Democrat MP for Rochdale, recently raised concerns following a report from a social worker on the situation facing women in Rochdale. He said:

**'It's appalling that this is happening in the 21<sup>st</sup> century... The immigration system in this country is so rule-bound that it fails to take into account situations like this. We are missing the human dimension... These women left destitute through no fault of their own deserve our compassion and support.'**<sup>20</sup>

Surveys carried out by Southall Black Sisters have found that it takes on average six to 24 months for a woman's immigration application to be determined.<sup>21</sup> Women cannot avail themselves of the Domestic Violence Rule if they have nowhere to go after they have reported domestic violence, and although the Home Office fast-tracks applications from women in these circumstances, there is still an unacceptable period in which women are left destitute and without vital support and protection. The Government is effectively, in its own words, denying support and accommodation

that is 'life saving and critical' to victims subject to immigration control<sup>22</sup>.

The stark choices women face may be stopping them from coming forward to make applications under the Domestic Violence Rule. The experiences of Southall Black Sisters indicate that, without a doubt, the Domestic Violence Rule has saved lives, but its effectiveness is undermined by the no recourse requirement. While the Government says it wants to protect women from domestic violence or forced marriage, in reality a number of these women are forced to stay in abusive situations. Given its international obligations, the Government is failing to make the obvious connection between not allowing victims access to housing and social security benefits and a denial of 'life saving and critical' services.

Immigrant and asylum-seeking women are particularly vulnerable because of the layers of discrimination they face, as women, as ethnic minorities, and as non-nationals. Southall Black Sisters have led campaigning and lobbying to draw the attention of the Government to the plight of women with immigration and asylum problems who are also suffering violence.<sup>23</sup> Yet, while the Government has responded with some initiatives, they have failed to make a tangible difference in protecting the human rights of these women.

In response to campaigning efforts to highlight the impact of the no recourse to public funds requirement, particularly on women eligible to apply for indefinite leave to remain under the Domestic Violence Rule, the Government made contributions to the Women's Aid Federation's 'last resort' fund in 2004. Two contributions were made to the fund of £40,000 and £80,000, to which refugees could apply to support women with no recourse to public funding.<sup>24</sup> This was an acknowledgement of the Government's responsibilities towards these women, but this money was exhausted in 2005 and has not been followed up with further grants or long-term solutions.<sup>25</sup>

Members of Parliament have tabled questions in the House of Commons on how the Government plans to rectify this situation. In response, Government Ministers expressed concerns about the cost as well as potential fraudulent applications. On 20 December 2004, Sandra Gidley MP tabled the question: 'To ask the Secretary of State for the Home Department if he will change the immigration and benefits rules to exempt victims of domestic violence subject to immigration control from the no recourse to public funds provision.' Des Browne responded: 'Persons still subject to immigration control are excluded from access to public funds under section 115 of the Immigration and Asylum Act 1999 and we do not feel that it would be appropriate to make an exception for this particular group. It could lead to people making fraudulent applications, which would not benefit the real victims of domestic violence.'<sup>26</sup>

Such concerns could be addressed through measures to ensure the validity of applications, as has been done under the evidence requirements to the Domestic Violence Rule. Amnesty International and Southall Black Sisters take the view that guaranteeing safe accommodation and support to victims of violence would not be beyond the reach of this Government, and concerns about potential fraudulent claims are not proportionate considering the severity of the circumstances of these women and the continued abuse of their human rights.

More recent responses to MPs' questions indicate that the Government is aware of the situation and keeping it under review. In February 2006, the Government alerted Local Authorities to the needs of domestic violence victims who have immigration problems and no recourse to public funds, informing them that in some instances these women could be eligible for assistance. In fact the Home Office recognised that '*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*'.... '[T]o reduce the chances of this happening, we are asking local authorities to be mindful that some victims of domestic violence could have specific needs for care and attention and/or have dependent children, which may make them eligible for

**'The support structures that are there to protect also oppress because they effectively block very vulnerable women from much-needed help and support. We are constantly having to think outside of the box to find ways to help.'**

Interview with refuge worker on  
24 October 2007



assistance...’ But crucially, no funds were made available for this purpose, nor any change to eligibility for housing benefit and income support.

The experiences of the women and organisations interviewed for this report show that this letter had little or no effect. Local Authorities take the view that they have no obligation to provide for women subject to the ‘no recourse to public funds requirement’ and have had no other direction from the Government as to how being ‘mindful’ of the needs of women in these circumstances should translate to practical responses. The following case highlights a typical response from one Local Authority:

### CASE

Lorena [not her real name] arrived in the UK in 2000 on a tourist visa, and then remained on a succession of student visas until 2004. Shortly after her arrival in 2000 she married a UK citizen. However he never made an application for her to stay on the basis of their relationship. They had a child in 2003 and two years after she left him following severe domestic violence. Lorena approached social services on five different occasions, twice she was told by them that they were willing to take her child into foster care or provide a ticket for them back to Bolivia. Local Authority social services also made contact with her ex-partner to ask for financial contributions without assessing the risk due to the history of violence. This was unsuccessful. So far she has managed on the charity of others, in particular from the church where she attends. Lorena is extremely upset at the effect their destitution has had on her child, she owes a lot of money to the private landlord she is ‘renting’ from and fears they may be evicted. Yet she has been waiting since June 2006 for an answer to her application to remain in the UK. She is devastated and no longer knows what to do.

Latin American Women’s Aid, interview ,August 2007

Local Authorities have taken different paths in trying to resolve this contradictory message. Nearly all refuse to provide support to single women without dependents, whilst some are also doing their best to avoid providing support to women with children.

Most Local Authorities give contradictory messages to women with children as highlighted by Lorena’s case. Their first response is usually to suggest taking the child into care or provide mother and child with a ticket home, thus discharging their obligation to the child and avoiding any possible vicarious provision to the mother. The suggestion to separate the child from the mother for purely financial reasons completely contradicts the principle of working in the best interest of the child, as required by the UN Convention on the Rights of the Child. It also contradicts the foundations of the Children Act 1989 and ‘Every Child Matters’, the Government agenda for every child, whatever their background and circumstances, to have the support they need to be healthy, stay safe, enjoy life and achieve. Influenced by budgetary concerns, Local Authorities have adopted often aggressive policies of non-intervention, shifting responsibility for the protection of children onto the third sector. Often it is only with strong legal representation on behalf of women that some form of support from Local Authorities is forthcoming, but even then this is not guaranteed, and usually has a cut-off point after which no further assistance is given.

Southall Black Sisters have also found that pregnant women have difficulties in obtaining help from social services:

‘In one case we worked on, a heavily pregnant woman had to instruct solicitors and threaten a judicial review of social services refusal to assist before social services eventually agreed to fund her placement in a refuge. In another case, a woman underwent an abortion after social services failed to assist her.’<sup>28</sup>

There are pockets of good practice where some Local Authorities actively share information and guidance on how to respond to victims of violence with no recourse to public funds. Islington Council coordinates a ‘No Recourse to Public Funds Network’ and has produced a briefing paper for Local Authorities on domestic violence. The briefing reminds Local Authorities that as with every no recourse to public funds case, they should carry out an eligibility test and an assessment of need for women fleeing domestic violence. Local Authorities may decide to provide some support if an applicant is considered ‘destitute plus’, that is ‘they have needs over and above mere destitution’. The briefing paper states ‘(I)n assessing whether an individual is “destitute-plus”, domestic violence may be relevant.’<sup>29</sup>

Specifically, the briefing refers to the case of *Khan v Oxfordshire* to indicate there may be instances where a victim of domestic violence does have a need for care and attention which arises from domestic violence itself and not solely because of destitution. Research undertaken for this report indicates that such initiatives, while encouraging, are not producing consistent practical solutions for women and the organisations that are trying to help them. It seems to be the case that the majority of Local Authorities, in carrying out their eligibility tests and assessments of need for women fleeing violence, will rule that women in these situations are not eligible for support.

For single women and those without representation, success in gaining state support appears to be rare. The inadequate response of Local Authorities highlights among other issues, the need for full and comprehensive legal aid provision so that the illegality of decisions can be challenged.

The Government approaches the issue of accommodation and support to women with insecure immigration status as *discretionary* rather than *obligatory*, and fails to provide any resources for even the most discretionary provision. The fact that the Government continues to fail in its obligations towards these women despite understanding the grave situations of violence they find themselves in, has many serious consequences for the women involved and those organisations trying to help them.

## 2. The impact on service providers

Specialist services are essential if the human rights of victims of gender based violence are to be respected and protected. Those providing services in the UK to women fleeing violence do so on the basis that they do not turn away any women seeking help. However, with the lack of Government action to tackle the problem of women subjected to the ‘no recourse to public funds requirement’, many service providers find they cannot offer appropriate help to vulnerable women at great risk.

Dealing with the everyday reality of women in crisis, the service providers in this research described the lengths they go to in order to try and find safety for these women. They even resort to providing accommodation from their own scarce resources or finding places within the community from personal contacts. Sometimes this involves women staying in places temporarily, including in empty houses and flats where sympathetic owners will allow women to stay at low rents or rent free. These ad hoc and temporary initiatives might provide a roof for some women, but do not solve the problem of food and clothing, let alone helping them rebuild their

In one case we had involving a Jamaican woman and her child, her local authority told her to leave her accommodation because they could no longer support her. She was told to give her child to the father, find somewhere else to stay or go back to Jamaica. In another case we had, social services refused to assist even though the woman’s child was on an ‘at risk register.’<sup>27</sup>

In Scotland, the Scottish Government has agreed to set up a short-life working group (SLWG) to develop information on women with no recourse to public funds who have experienced domestic abuse. This will be included in the Code of Guidance on Homelessness and will clarify the position for Local Authorities to provide accommodation and funding, under existing legislation. The Wales Assembly Domestic Violence Working Group has also discussed the issue and will be advising the Minister for Health and Social Services on the situation in Wales and of the steps the Assembly might take.



lives. It also means the women remain vulnerable, reliant on others, and at risk of exploitation.

### CASE

**In one case handled by Southall Black Sisters, in return for accommodation, a woman was forced to work long and exhausting hours as a domestic servant. This entailed caring for three young children, doing all the cooking and housework, and decorating the whole house for some people she met at a temple, after escaping domestic violence from her husband and in-laws.**

Service providers know that women who are refused access to safe accommodation and financial support remain at risk. When their only option is to live with relatives, acquaintances or strangers, they often face physical, psychological and/or sexual exploitation. Others may resort to prostitution or having to live on the street:

**'Many of the women in this town either stay, go into other abusive relationships or into prostitution to support themselves.'**

Interview with refuge worker 1 October 2007

Lack of funding has been a persistent problem for service providers. Every organisation interviewed for this report talked of the financial impact on their organisation, with some facing such severe problems that they feared closure. Given the continued drain on their funds and other resources, many service providers have found they are unable to take referrals of women with no recourse to public funds.

Due to the lack of funding some women and those helping them have been forced to turn to religious institutions within their communities. This is a step fraught with difficulties, since women in these circumstances can find themselves vulnerable to pressure to return to abusive marital homes on cultural and religious grounds.

In one case that came to the attention of Southall Black Sisters, a woman had to agree to physically care for the temple where she slept. However it was a dangerous and inappropriate environment because she faced persistent abuse and hostility from her husband and his family and friends who were regular devotees at the same temple.

Women able to get a place in a refuge know how lucky they are to have found safety. Even then, many face additional difficulties, such as the constant threat of eviction due to funding being withdrawn or curtailed and the pressure this uncertainty brings.

Many refuges, especially those providing specialist support to Black, Minority, Ethnic and Refugee (BMER) women are dangerously stretching their already tight resources to provide at least one space for women with no recourse to public funds.

The domestic violence charity Refuge, as of October 2007, was supporting 22 women with no recourse to public funds in accommodation and many more in their outreach services. The financial cost to Refuge of supporting the 22 women is around £200,000 a year.

The Women's Aid Federation (England) Annual Survey for 2006 estimated that 125 women with no recourse to public funds were in refuge accommodation on 2 November 2006 (census day), 3 per cent of the total resident population, and almost twice the proportion given for the year 2005-6. Women's Aid also estimated that 25 women with no recourse to public funds were turned away on the census day because the refuge organisation could not afford to provide accommodation.

BAWSO in Wales calculate a cost of £15,000 per year to support a woman with no

recourse to public funds and her children. Northern Ireland Women's Aid Federation have absorbed the costs of offering accommodation, support and services 'in a vacuum' providing support in the last two years to 72 women and 46 children across their refuges.<sup>30</sup> Such reliance on the third sector without the provision of adequate funding is unacceptable and a failure on the part of Government to fulfil its own obligations.

All this has led to an environment where refuge workers have to fight 'tooth and nail' to secure help for these women. A consistent concern is that, when dealing with women with insecure immigration status, Local Authorities automatically say no to any request for support without thinking through what options might actually be available. One Outreach Manager spoke of having to continuously problem-solve against persistent blocks, and of how distressing it is when the only option is to close case files because they can no longer offer support, leaving women alone and unsupported.

Even where women are fortunate enough to find the support of experienced and specialist service providers for BMER women, help is not guaranteed.

### CASE

**Shortly after her arrival in March 2004, Zara's dream of a happily married life crumbled. She was treated like a servant and both her husband and mother-in-law were increasingly verbally and physically violent towards her. Zara's husband would threaten her with a knife for the smallest of housekeeping 'mistakes'. Knowing that going back to her family back home would bring shame on them she didn't see a way out. However one night when her father-in-law tried to rape her she ran away, thankfully she was referred by the doctor she spoke with to Shakti Women's Aid in Edinburgh. The first priority was to organise finance and accommodation as well as get Zara advice about her immigration status. A request was made to the council's emergency temporary accommodation department who assessed the case and decided that they would not provide accommodation because she had no recourse to public funding. The local social work team also said that they would not provide living expenses on the same basis and said that Zara should find a job. This was notwithstanding the recent violence against her and the trauma she was living with due to the violence and the end of her marriage with top of her lack of sufficient English language skills. Instead Shakti asked one of their clients with government support to share her room with Zara and after some time managed to get Zara a job. After having received one rejection of her application to remain in the UK she was successful at the immigration tribunal hearing.**

Shakti Women's Aid, September 2007

Zara's experience illustrates that women can face gender based violence in different ways, from physical violence, sexual violence and situations akin to slavery. Women in situations like Zara's are often isolated, monitored closely or even imprisoned by their abusers. They also face additional barriers to accessing support and help, including communication problems and fears of retaliation. The only agencies women like Zara may come into contact with are frontline health professionals such as doctors, health visitors and accident and emergency staff. Those who do come into contact with these professionals, are dependant upon them being aware about violence against

**'I am really grateful for this project, without them life would end for me, life wouldn't be worth living.'**

Interview September 2007

women and of the support services that exist, yet there is no guarantee that they will have this knowledge.

Zara's case illustrates the difficulties particularly faced by women on their own without children. Even with the support of an experienced organisation like Shakti Women's Aid, Zara was still refused emergency assistance despite the attempted rape and threats against her. Organisations like Shakti, experienced in supporting victims and survivors of violence, are placed in impossible situations knowing that for a woman to have to return to a violent situation is not acceptable, and do all they can to avoid doing so.

In November 2007, the 'Map of Gaps' report, researched by the Child and Woman Abuse Studies Unit, highlighted the lack of specialist service provision for women, including BMER women, fleeing violence. Published by the End Violence Against Women Campaign and the Equalities and Human Rights Commission, the report reinforces the picture gained from this and other research of a severe shortage in the availability and accessibility to emergency and specialist temporary and longer term accommodation and other services for women subjected to violence. If an integrated and strategic approach was taken to all policy making on violence against women, the Government would be unable to justify such discrimination. Effectively the Government is shifting its responsibility to keep women with insecure immigration status safe onto the over stretched and under-funded voluntary sector.

## DENIED BASIC RIGHTS GOVERNMENT FAILING ITS INTERNATIONAL OBLIGATIONS

The Government is responsible for respecting, protecting and fulfilling women's human rights through its adherence to international human rights conventions and declarations. These include the Universal Declaration of Human Rights (UDHR), the International Convention on Civil and Political Rights (ICCPR), the International Convention on Economic, Social and Cultural Rights (ICESCR), the Convention on the Elimination of all forms of Discrimination Against Women (CEDAW), and the Convention on the Rights of the Child (CRC). All were created to ensure the protection of fundamental human rights across the world, and include rights that are non-derogable under any circumstances, for example the right to life, the right to be free from torture, and cruel and inhuman and degrading treatment, the right to be free from slavery and the fact that these rights are guaranteed free of discrimination.

Under these conventions a State must not violate fundamental rights, and must provide adequate protection from abuse of these rights to everyone living within its jurisdiction. In the case of women fleeing violence in the UK, acting with due diligence to protect their right to life and to be free from torture, cruel and inhuman and degrading treatment means the Government must ensure all women have access to services providing emergency and long-term protection, justice, accommodation, support and medical treatment, and other provisions to help them regain security and human dignity.

International human rights law permits States to differentiate between citizens and non-citizens in some areas, but this has been narrowly defined as appropriate only when *necessary* and *proportionate* to a legitimate aim.<sup>31</sup> For example in restricting rights to stand in elections and to vote, or in maintaining systems to control immigration. However differentiating between citizens and non-citizens should not apply to the enjoyment of rights as a whole and cannot apply to non-derogable rights such as the right to life, or the right to be free from torture or cruel, inhuman and degrading treatment. Indeed, the particular right of immigrant women to assistance in cases of violence on an equal level to citizens has been clearly recognised.<sup>32</sup>

This research shows that women with insecure immigration status face continuous abuses of their fundamental human rights. They are denied access to essential services which are necessary for protection from abuse, such as emergency housing and basic welfare benefits.

### 1. Second class human beings: Right to be free from discrimination

**UDHR Article 2: Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status. Furthermore, no distinction shall be made on the basis of the political, jurisdictional or international status of the country or territory to which a person belongs, whether it be independent, trust, non-self-governing or under any other limitation of sovereignty.<sup>33</sup>**

Non-discrimination without distinction is a central tenet of many international human rights treaties to which the UK is a party. Although Governments are able to differentiate on the basis of nationality in the pursuit of immigration control, they should not offer less respect and protection to those within their jurisdiction on the basis of immigration status. As discussed above, the policies and practices the



Government has adopted on service provision for UK residents fleeing violence are not open to the women discussed in this report. This is a violation of the principle of non-discrimination.

### CASE

One woman we are supporting from India is here on a spousal visa. She has been kept as a slave in the house and the whole family have been physically, mentally and sexually violent towards her. During the last 9 months she has had two pregnancies, the first she was forced to abort by her husband's family, the second – she miscarried probably as a result of being forced to carry things and do physically hard work.

The family threatened to kill her several times but on one occasion they actually doused her with petrol and threatened to set her alight, she thought they were going to do this and managed to get out of the house and ran to the end of the road into a GP's surgery. The staff were really good and phoned the police straight away. The family followed her into the surgery and tried to downplay what had happened. The police ended up mediating between her and the family. The family tried to hide the level of abuse they subjected her to, but admitted to some tensions and promised the police they would try and sort it out. She was sent back with the family. Social services were informed and they made a visit to the home and interviewed her - but in front of the family.

The abuse continued, until one day the family took her to a solicitor. It just so happened that the solicitor they visited knows our organisation well. The family had taken her there to sign some papers, and the solicitor was concerned that the woman didn't understand the papers. The solicitor told the family to wait outside and then she talked to her in her own language. The family were planning a divorce and to send her back to India. She had no idea. The solicitor got the family to leave and brought her to us.

She has no recourse to public funds, and we had no refuge space available. Our case workers managed to trace some people in the Midlands who knew her family back in India. She stayed there for two weeks, but they couldn't look after her after that and they said she had to leave. We brought her back and found her somewhere temporary – basically a flat that was going to be empty for a bit which we could use. She is now living in a house that is owned by someone who runs a community project and who lets people with no recourse stay there. It's sparse and she has no money for day to day living, but at least she has a place. There are a few women currently living there who have 'no recourse'.

Outreach worker, interviewed October 2007

This distressing case illustrates the impact of the discriminatory policies on women trying to access accommodation and support, and the knock-on effect that this has on other statutory agencies such as the police and social services. The medical surgery contacted the police because it was faced with a serious situation of violence. Yet, despite the involvement of the police, she had to return to her violent family home. Her outreach worker felt that the police decision to mediate rather than try and get

her out of the violence was probably influenced by the fact that the woman was subjected to the no recourse to public funds requirement:

*'I fail to understand why there is accepted good practice for dealing with domestic violence which is simply ignored for this group of women. Returning a woman who had fled, doused in petrol, back to the family would not be considered good practice normally in domestic violence cases. I believe that this response was because the police didn't know what to do with her because she didn't speak English, and was here on a spousal visa. Just because she was unable to communicate in English, and because of her status, this leads into a lack of information being offered to victims which is unacceptable.'*

Outreach worker, interview October 2007

One argument used to justify this discrimination is that these restrictions on access to benefits act as a deterrent, discouraging immigrants from entering the UK who could pose a threat to public safety, national security and economic well being in the UK. However, this ignores the fact that most of these women are already legally in the UK. The pull factors for these women are hopes of a happily married life, finding a decent job with a decent employer, or success in study. Some are in the UK illegally, either classed as over-stayers – their spouse having failed to formalise their status – or because they were trafficked by violent gangs, provided with false documents and/or smuggled into the UK. The notion that such women put their lives in danger, or subject themselves to ostracisation and stigma following divorce or separation, in order to access housing or benefits is not sustainable. Nor is the argument that it is easy to give a false history of violence to experts.

As stated, the Government has to ensure that any restrictions it puts in place affecting people on the grounds of nationality are proportionate and do not violate the most basic and fundamental rights, such as the right to life.<sup>34</sup> This report provides evidence that the impact of these restrictions is not proportionate and do, in fact, violate fundamental and non-derogable human rights.

Extending the provision of essential and potentially life-saving protection and support to women with insecure immigration status cannot be deemed to be beyond the financial means of the Government, and therefore falls within their obligation to act with due diligence to protect, respect and fulfil the rights of women within their jurisdiction.

Through the long-standing campaigning of organisations like Southall Black Sisters, the Government is aware of the specific problems and needs of women with insecure immigration status who have experienced violence. If the Government was so minded, immediate and long-lasting solutions could be found to this problem that are fair and appropriate, and focused on the needs of women fleeing violence.

### GENDER EQUALITY DUTY

The Gender Equality Duty introduced in April 2007 also places obligations on public bodies, including Local Authorities, to promote equality across their policies, services and employment practices, and to ensure that they are responding to the needs of those within their areas. The general duty requires all public bodies to eliminate unlawful discrimination, and promote equality between women and men. Local Authorities are also required to undertake specific duties, these include gathering and using all relevant information on the gender impact of their work; to consult stakeholders, service-users, voluntary groups, employees, trade unions; to set and implement gender equality objectives; to carry out impact assessments on all policies and practices; to report annually and review every 3 years. Both general and specific duties are legally enforceable in the courts.

Violence against women is recognised as one of the single biggest barriers to gender equality, and as such should be a priority for Local Authorities in fulfilling their obligations under the Gender Equality Duty.





## 2. Women at risk: The right to life, liberty and security of person

### UDHR Article 3: Everyone has the right to life, liberty and security of person

#### CASE

On 1 March 2006, Southall Black Sisters received a call for advice from Rochester Police stating that they had rescued a woman from domestic violence perpetrated by her husband and in-laws, and were desperately seeking alternative accommodation for her. She had no family or friends in the UK and under immigration and benefit rules, she could not access emergency housing or claim any benefits. No refuge was prepared to accept her as she could not pay rent or support herself. Local charitable organisations including the Sikh temple were not prepared to accept her. Out of desperation, the police stated that they were minded to contact the Home Office to detain her. The police did not want to be responsible for sending her back to her matrimonial home to face what they considered to be 'certain death'.<sup>35</sup>

Violence against women, whatever the context, is an abuse of women's fundamental human rights. The act of violence itself harms women's right to liberty and security of person, and also threatens their fundamental right to life.

On average two women a week in the UK are killed by a partner or former partner.<sup>36</sup> This alone shows that the Government has a long way to go in developing and providing the resources for more effective interventions to protect women's right to life.

Fundamental to the protection of women's right to life when they are subjected to or fleeing gender based violence is *'life saving and critical'* access to accommodation and support. In all the cases examined for this report, women's rights have been violated at different points, starting with the act of violence itself, and compounded by the lack of Government support when seeking help. The fact that women with insecure immigration status are not guaranteed access to safe, secure and appropriate accommodation and support means that their right to life, liberty and security of person is constantly under threat.

#### CASE

We supported a woman from North Africa, 'Rania' (not her real name), through our city outreach service. She came in to the UK on a student visa seven years ago. She met her partner, a UK citizen, with whom she had a brief relationship before marrying. She has been living with him since and he has been violent throughout the relationship. She has a 5-year-old child. She is still classed as an illegal immigrant notwithstanding the length of her marriage to a British national as he has refused to regularise her status as his spouse. Her husband has also made her work, pay tax and claim National Insurance under a different name and so she is very scared of being sent back to her country.

Her husband is extremely physically violent, both in public and private. He has made threats to her life. We feel she is at real risk of being murdered by her husband and that her child's life is also at risk. The police have

been involved on numerous incidents, but she has never prosecuted, and although she has been in contact with other services in the past no proactive steps were taken to intervene. She then came to our attention.

We took her to the Local Authority to ask them how they could help her to leave her husband. Their response was that would not support her. They said her only option was to claim asylum. They also told her she would be dispersed under the National Asylum Support Service. We then took her to an immigration solicitor who told her that her best option was to stay with her violent partner for another two years until her child was 7. She could apply to stay under different grounds. Obviously we sought alternative legal advice. She was told that she could apply for leave to remain in the UK due to her exceptional circumstances – mainly the abuse she had suffered and her situation, and on the grounds that her child is British.

But she is too scared of being removed and so doesn't want to pursue that route. Therefore she has ended up staying in this extremely violent situation and we are staying in touch and trying to identify other possible avenues for protection and support for both her and the child.

Interview with service provider, 23 October 2007

This case shows how, despite extreme and life threatening violence, lack of alternative options compels women to continue to live with perpetrators at great risk to their lives and that of their children. Had Rania been able to access benefits in order to obtain safe accommodation, her right to life would have been immediately protected. Both she and her child would have been allowed access to safe, secure and appropriate accommodation, protected from further abuse and given much needed support to rebuild their lives. Instead she remains in danger.

The Local Authority's refusal to provide women like Rania accommodation also affects others in the community in a similar situation, who will know they are unlikely to get help because of their immigration status. Amnesty International and Southall Black Sisters are greatly concerned that many women live with violence and abuse but feel unable to take the first crucial steps to seek help.

Organisations working to help these women are also concerned that perpetrators use the immigration rules as a means of controlling their partners.

Women living in situations of violence are frequently told that if they leave, they will have nowhere to go, that if they contact the authorities they will be detained and removed, back to their countries of origin with or without their children. These women fear remaining in their current violent situation - but also the consequences of being removed to their home communities as a divorced or separated woman. In some cases perpetrators have lied to their spouses or partners, claiming to have sorted out their immigration status without having done so.

Perpetrators of violence will often use their spouse's or partner's insecure immigration status as a way of perpetuating their vulnerability and dependency.

It was precisely such considerations that led to the introduction of the Domestic Violence Rule. This was meant to provide abused women, whose marriages have broken down as a result of domestic violence within a two-year period, a route by which to apply for indefinite leave to remain in the UK. But the Domestic Violence Rule does not extend to women who are over-stayers or on student, tourist or work visas, only for those on spousal visas. This too is a significant failure of the Government's obligation to protect all women within its jurisdiction.

'We are just waiting for the phone to ring to tell us she's been killed.'

Comment from Rania's outreach worker

'What is really depressing is that we can't do anything to help. Everyone knows that these women will either stay in a violent situation or open themselves up to exploitation elsewhere. Yet we can't provide a safe place for them. This gets you down day by day. We are supposed to help women to get out of violence but we are told not to help these particular women.'

Interview with outreach worker October 2007



'We are currently supporting a young South Asian woman who came into the UK on a spousal visa, she has been here for 9 months. She has been kept like a slave in the house, not allowed to go out, and has been suffering physical abuse from her mother-in-law and her sister-in-law, and her father-in-law attempted to rape her. She had been kept locked up in an upstairs room and only brought out to cook and clean.'<sup>38</sup>

In Scotland the Trafficking Awareness Raising Alliance project has been funded by the Scottish Government and Glasgow City Council to provide support and accommodation. On 19 November 2007 they were paying for direct support for 11 women.

In Amnesty International's recent report, 'Under The Covers: Trafficking for the sex trade in Wales', it is estimated that there could be hundreds of trafficked women in Wales.<sup>38</sup>

The experience of BAWSO, a leading organisation providing refuge and support services for black and minority ethnic women escaping violence, also indicates that trafficking is increasingly coming to the attention of agencies and organisations in Wales.

The Welsh Assembly Government has expressed concerns on trafficking in Wales and recently announced their intention to fund the development of a six-bed safe house for women fleeing prostitution including trafficking in South Wales.

### 3. Escaping slavery: The right to be free from slavery or, servitude and the right to be free from torture or cruel, inhuman or degrading treatment or punishment

**UDHR Article 4: No one shall be held in slavery or servitude; slavery and the slave trade shall be prohibited in all their forms**

**UDHR Article 5: No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.**

With their access to safe, secure and appropriate accommodation restricted, many women are forced to remain in situations of slavery, suffering severe forms of gender based violence. As indicated, women subjected to the no recourse to public funds requirement include trafficked women. However, many women on spousal, student, tourist or work visas also experience domestic slavery and servitude. Many women have described being treated like 'slaves' by their husband, partner and/or his family.

Trafficking is the movement of men, women and children by use of threats, violence, coercion or deception for the purpose of exploitation including prostitution, forced labour, slavery-like conditions and servitude, and is considered a form of modern day slavery. This would include for example women forced into prostitution, migrant workers working in domestic and other kinds of labour, and women and children trapped in domestic servitude either by employers or by family members.

The Government marked the bicentenary of the abolition of the slave trade by signing the Council of Europe Convention on Action against Trafficking in Human Beings (ECAT) in March 2007. This Convention includes minimum commitments to, among other things, provide a recovery and reflection period and specialist support and specialist accommodation to those identified as victims of trafficking. However, because of the no recourse public funds rule, the majority of trafficked persons are not able to access accommodation and support when trying to escape situations of violence and exploitation.

#### Trafficking for sexual exploitation

Currently the Government has funded only one project providing support and accommodation to victims of trafficking. The Poppy Project has funding until 2008 to provide accommodation and multi level support for only 35 women at any one time. Under their funding conditions however, they can only provide support and accommodation to adult women who are victims of trafficking for the purpose of sexual exploitation and who are willing to help the authorities with their investigations. The latter condition in particular can prevent women from accessing services because they fear repercussions for themselves or their families if they help police investigations.

Despite such initiatives, across the UK the responses are inadequate given that the Home Office has estimated there are approximately 4,000 women who have been trafficked for the purposes of sexual exploitation in the UK.

Most trafficked women are subject to the no recourse to public funds requirement and face similar problems in accessing support and safe accommodation. In disregarding the need to provide women who have been trafficked into the UK with access to accommodation, the Government is helping to maintain a system in which women are trapped in situations of violence, or vulnerable to other violence and exploitation including returning to their traffickers. Provision for support needs to be long-term and sustainable and not through ad hoc arrangements.

On ratification of the Council of Europe Convention on Action against Trafficking in Human Beings (ECAT), the Government will need to provide appropriate support

and protection for trafficking victims. Amnesty International and Southall Black Sisters believe the Government should build on the expertise and experience of the women's voluntary sector in providing specialist and effective protection and support, and ensure that trafficked women are able to access specialist services appropriate to their needs.

#### Migrant workers

In 2006 12,500 people were granted entry to the UK as Overseas Domestic Workers, the vast majority of whom are women. Overseas Domestic Worker visas are provided to the migrant worker only on condition they stay with the employer mentioned in their visas. They are granted stays for between six months and one year, but can apply for extensions after the initial period. However, in reality only just over 5 per cent of migrant domestic workers apply for extensions. After a continuous period of four years, a migrant domestic worker can apply for indefinite leave to remain in the UK; when this is granted he or she is entitled to seek any form of work.

In the financial year 2005-6 Kalayaan (the only non-governmental organisation working solely with migrant domestic workers in the UK who have been victims of abuse) dealt with enquiries from 387 migrant domestic workers, 86 per cent of whom were women. Of these, 23 per cent indicated they were subjected to physical abuse, 70 per cent to psychological abuse, 71 per cent were deprived of food, and 86 per cent worked over 16 hours a day. Kalayaan also reported that where they have been able to speak in depth with the workers, more than half have indicated that they have also been subjected to sexual abuse.<sup>40</sup> All these workers were subjected to the 'no recourse to public funds requirement' and so were unable to access emergency accommodation when leaving their abusive employers. Instead they had to rely on the charity of other migrant domestic workers or private organisations. According to Kalayaan, following escape from an abusive employer, the vast majority of workers prefer to work for other employers rather than rely on charitable support. However for many the process of leaving a violent and abusive employment in the first place is made extremely difficult by not having access to emergency accommodation and sound advice and support.

#### CASE

In June 2006, a migrant domestic worker of Indian nationality ran away from her employer. She had a valid visa and valid passport and had managed to recover these from her employer who had kept the documents since her arrival in the UK. Her employer treated her badly, making her sleep on the floor of the child's bedroom, withholding wages, constantly shouting at her and making her work from 7am to 11pm each day with no day off. She then learnt from a friend that she could leave her employer. She had nowhere to stay so she stayed on her friend's floor until she found another employer.

When the woman came to Kalayaan she was very distressed. She explained that soon after her employers discovered that she had run away, her son who lived in India had been taken by the local police to the local jail. The police interrogated him to discover the whereabouts of his mother and searched his apartment. The woman was contacted by her son's neighbour who told her about her son's circumstances. She was told that unless she went back to her previous employer, her son would remain in prison and at risk of physical violence.

Her son remained in jail for three days. Following intervention from

In the past six months we have accommodated four trafficked women in BAWSO refuges. The referrals we received came from the other support agencies which we work in partnership with: the police, homelessness, The Sister in Need Project and The South East Wales Race Equality Council. All of whom have expressed concerns about the growing numbers of these gangs, and the lack of safe secure accommodation available for them.<sup>39</sup>



Kalayaan with the employer her son was eventually released and she remained working in the UK with a different employer.

Information provided by the NGO Kalayaan, May 2007

Kalayaan is also concerned that the Government is considering further changes to immigration rules which will remove the rights granted to migrant domestic workers to change employer and renew their visa. If this change becomes law migrant domestic workers, many of whom are victims of trafficking, will be even more vulnerable to abuse at the hands of their employers, often trapped in situations of slavery.

#### 4. Leaving children in the dark: The rights of the child

Research for this report also exposed the danger and trauma children face. Again, international human rights treaties and in particular the UN Convention on the Rights of the Child provide a framework for the Government's obligation towards children as reflected in the Children Act 1989 and the Every Child Matters Agenda. A central principle of the UN Convention is that the best interests of the child should be paramount.<sup>41</sup>

Amnesty International and Southall Black Sisters have heard disturbing accounts of social service departments threatening to take children away from their mothers, either to return to abusive fathers or to place them in care. In some cases, Local Authorities have also been known to offer to pay the fares for women and children to return to their countries of origin irrespective of the harm they may face on return. These seem to be threats only: with strong representation, social services soon retract or deny having made such a statement. However the women do not know this at the time, and considering their often poor experiences of authorities, this is an extremely damaging response, echoing the threats made by the perpetrator of violence against them.

**'On one occasion I accompanied a woman we were supporting to a meeting with social services where they told her they could not fund to support her, but that they could purchase a ticket for her to return to her country of origin and they would take the children into care – because they claimed to have a duty towards the children but none to her as the parent.'**<sup>42</sup>

One interviewee explained the following, distressed and in tears:

**'Social workers in London spoke to my husband to get him to support me. He told them that he would take our daughter and that I could be deported. They came back and asked me if I would do this. I said no way I won't give him [a husband who had beaten her and allowed his mother to beat her in front of her child] my daughter. Because of my status problem there is an issue with the refuge, that's why he told the Social Workers "give me my daughter and deport her'.**

**'My daughter sometimes wakes up in the night and I need to be up to look after her, so I don't sleep. My head hurts and I have thoughts going through them all the time, I have been told that I need to take tablets to go to sleep. I can't take them, I don't want it to be written in my records that I take them. I don't want social services to look at my records. They might say that with tablets, I might get drowsy and sleep and something could happen to my child. I don't want to take the tablets. I am afraid that they might take my child.'**

Interview, September 14 2007

Local Authorities in Scotland, England and Wales have a responsibility to provide housing for children under Sections 22 and 25 of the Children Scotland Act 1995 and Sections 17 (for children and their families) and 20 (for children alone) of the Children Act 1989 respectively.<sup>43</sup> When Local Authorities are persuaded to provide support for the child, the money is calculated only for the child or children, and is not calculated to take into consideration the needs of the mother. Although the mother will have a safe place to live with her child or children (often only one room notwithstanding the number of the children), the fact that she is not guaranteed accommodation in her own right leads to anxiety and confusion. It also forces those trying to provide support to vulnerable women to rely on creative methods to try and find ways to make ends meet for women, including relying on local charities, and asking for donations:

**'Even with social services funding, very often it is at a level that doesn't even cover the most basic of needs.'**<sup>44</sup>

In addition, the fact remains that not all Local Authorities will accept their obligation to house the children of women fleeing gender based violence, refusing to provide support on the basis of the no recourse to public funds requirement:

#### CASE

Ana is Polish. When Ana moved to Northern Ireland with her child, she was in employment and regularly registered. When her relationship with her partner became abusive and violent, she lost her job and consequently all her benefits entitlements. She came to the refuge while pregnant with her second child and stayed almost two years with a month long interruption in her stay. Applications to the Northern Ireland Housing Executive were made and requests submitted for housing benefit, they were all refused

'I had to literally write a begging letter to a head teacher to try and get free school meals for one child in our refuge' <sup>45</sup>

'Sometimes women arrive here and they have no pushchair, no clothes, no toys. Our workers try and get donations from companies and shops and will keep them for women with no recourse, things like nappies, powders and creams that get donated. And there are a couple of charities nearby where you can get free clothes or things for minimal cost, otherwise, the children have to go without.' <sup>46</sup>

because Ana lost her job before a year of full employment had passed. Social services however agreed to make payments to Ana of £20 per week per child, but would not provide money for accommodation. Instead these costs had to be underwritten by the refuge.

Provided by Northern Ireland Women's Aid refuge October 2007

It is not only women whose physical and psychological well being is at risk, but that of their children also. This is especially due to the fact that many women remain trapped with their children in situations of violence, and that when they seek help, as with Yasmin and Zara above, they are refused the protection of safe accommodation.

This situation completely undermines the Government's professed wish both to help protect children from violence and to eradicate child poverty by 2020, as they pledged in 1999. In October 2007 the Government announced the creation of a Child Poverty Unit to help co-ordinate efforts by Government and other agencies to meet the Government's target of halving the number of children living in poverty by 2010. This is a hollow promise if it fails to reach out to all children across the UK, including those who are not UK residents or who have parents who are not UK residents.

Key to understanding the Government's failure to fulfil its obligations to children is the fact that the UK is one of only two countries that has not fully ratified the UN Convention on the Rights of the Child without reservation. The UK maintains a reservation to this Convention with regard to children subjected to immigration control.<sup>47</sup> Maintaining a reservation to the key international treaty to protect children's rights damages the Government's stated aspiration to protect all children and meet their needs - as set out in the Every Child Matters Agenda.

## INTERNATIONAL PRACTICE THE PROMISE AND THE REALITY

### 1. The International Human Rights Framework

The following examples of international treaties ratified by the Government outline some of the key obligations on human rights:

- The Convention on the Elimination of all forms of Discrimination Against Women (CEDAW)
- The Convention on the Elimination of Racial Discrimination (CERD)
- The International Covenant on Civil and Political Rights (ICCPR)
- The International Covenant on Economic, Social and Cultural Rights (ICESR)
- The Convention against Torture (CAT)
- The Convention on the Rights of the Child (CRC)
- The European Convention on Human Rights (ECHR) incorporated into domestic law by the Human Rights Act 1998

The rights and duties violated by violence against women do not only include those already highlighted, such as the right to life, liberty and security of the person; the right to be free of slavery and servitude; the right not to be subjected to torture or to cruel, inhuman or degrading treatment or punishment; and the right to be free of discrimination. They include many other rights, such as:

- The right to equal protection under the law
- The right to equality in the family
- The right to the highest standard of physical and mental health
- The right to family and private life
- The right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing (Article 11 1 of the ICESCR)
- The right of every child to a standard of living adequate for the child's physical, mental, spiritual, moral and social development (Article 19.1 CRC)

Of fundamental importance is the fact that these treaties spell out the obligations of the State to act with due diligence to protect, respect and fulfil the human rights contained within them without discrimination.

The obligation to *respect* focuses directly on what the government does through its organs, agents and the structures of its law to ensure they respect the rights of individuals. The obligation to *protect* requires the State to undertake any necessary measures to prevent individuals or groups from violating the human rights of others. The obligation to *fulfil* requires the State to take all measures necessary to ensure, for each person within its jurisdiction, the ability to achieve their human rights.

Many of the obligations to act with due diligence concerning this group of women, have been expressly stated in some treaties and declarations<sup>48</sup>, including the following:

- States must exercise due diligence to prevent, investigate and, in accordance with national legislation, punish acts of violence against women, whether those acts are perpetrated by the State or by private persons (Article 4c of the Declaration on the Elimination of all forms of Violence Against Women).
- States should work to ensure, to the maximum extent feasible in the light of their available resources and, where needed ... that women subjected to violence and, where appropriate, their children have specialised assistance, such as rehabilitation, assistance in childcare and maintenance, treatment, counselling, and health and social services, facilities and programmes, as well as support structures, and should take all other appropriate measures to promote their safety and physical and psychological rehabilitation (Article 4g of the Declaration on the Elimination of all forms of Violence Against Women).





- State parties, in accordance with national conditions and within their means, shall take appropriate measures to assist parents and others responsible for the child to implement this right and shall in case of need provide material assistance and support programmes, particularly with regard to nutrition, clothing and housing (Article 27.3 CRC).

## 2. The standard of due diligence

The standard of due diligence has developed as a way to measure whether a State has acted with sufficient effort and political will to fulfil its human rights obligations. It has also been articulated through the judgements in regional human rights courts. In the leading case of *Velasquez Rodriguez* 1988, the Inter-American Court of Human Rights found that States could be held responsible for an illegal act of a private individual which violated human rights, ‘not because of the act itself, but because of the lack of due diligence to prevent the violation or to respond to it...’.<sup>49</sup> Furthermore, the UN Human Rights Committee in its General Comment 31 on article 2 (the right to be free from discrimination), stated that where States fail to take appropriate steps and to exercise due diligence then they may be liable for the resulting human rights violation.

Extensive guidance already exists on what measures States should take in order to respect, protect, fulfil and promote the human rights of women subjected to all forms of violence and more specifically domestic violence. This can be found in the 1993 Declaration on the Elimination of all forms of Violence Against Women, the UN Beijing Platform for Action 1995, and in Recommendations by the Committee of Ministers (Council of Europe) on Violence Against Women 2001 and in the reports of the UN Special Rapporteur on Violence Against Women, in particular her 1996 recommendations on domestic violence legislation. Such guidance addresses planning and resources for domestic violence strategies, prevention, civil and criminal protection and remedies and providing emergency and long term support and rehabilitation to women and their dependants as well as addressing the prosecution, punishment and rehabilitation of perpetrators.

In many ways the Government has shown political will to address violence against women, acknowledging in ‘Safety and Justice’<sup>50</sup>, through the last resort fund, and its letter to Local Authorities, that these women need access to protection and support. However, it has stopped short of introducing proper measures that would guarantee protection and support to women with insecure immigration status.

The vulnerability of minority and non-national women who are victims of violence is recognised consistently throughout analyses of international standards, by experts, academics and international or regional courts or committees. They specify that such women should be accorded the same protection as nationals, and to achieve this requires specific services allowing them access to the same protections and remedies. The due diligence measures recommended therefore apply equally to non-nationals as to nationals.

## 3. Examples from other countries

As we have seen above, it is clear that under international law the Government must uphold the rights of women including those subject to immigration control. Amnesty International considers that the Government is failing under the due diligence standard to respect, protect, fulfil and promote the rights of the women whose experiences we have highlighted.

In other countries different measures have been taken (some more effective than others) to try to fulfil the duties to respect and protect the human rights of

women with insecure immigration status fleeing violence. For example, in Canada, spouses automatically become permanent residents on arrival and therefore eligible for government assistance should their marriage breakdown as a result of domestic violence.

In the USA, immigrant women who have been subject to domestic violence and abuse are entitled to short term central federal public assistance in the form of in-kind services (namely accommodation for 3 months).

In Austria, all women irrespective of their immigration status are entitled to access to a refuge and living costs for themselves and dependants if they use the anti-violence legislation.

The Government must take immediate and long-term steps to guarantee the safety of all women fleeing violence within the UK regardless of their immigration status. In doing so, the Government will be upholding the human rights treaties to which it has signed.

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## CONCLUSIONS AND RECOMMENDATIONS



The particular situation of women with insecure immigration status who face violence is desperate, serious and specific to them. Because of their immigration status they are faced with a set of additional barriers to accessing protection and support.

As illustrated in this report, the Government is aware of this issue and has responded on occasion with piecemeal approaches. These initiatives have been inadequate and have acted as no more than a short-term, temporary fix. They also illustrate that while one-off funding payments may make some difference at the time, they do not provide solutions to women or to the organisations trying to help them.

Although there has been little data collection to uncover the numbers of women caught between the gaps in protection and support, Amnesty International UK and Southall Black Sisters take the view that the severity of the situation for women like those interviewed for this report, warrants an immediate and permanent solution that will address their needs and protect their human rights.

Amnesty International UK and Southall Black Sisters believe it is incumbent on the Government to act with due diligence to respect, protect and fulfil the rights of this vulnerable group of women, and to ensure their protection from gender-based violence. The risks are so stark for some women with insecure immigration status that allowing them access to the benefits of secure, safe accommodation and support could make the difference between life and death. The most appropriate course of action to do this is to exempt women fleeing violence from the 'no recourse to public funds requirement'.

These recommendations concentrate on remedies to the violations and victims of those women highlighted within this report. The main recommendations focus on actions the Government should take. There are also recommendations for the Northern Ireland Executive, the Scottish Government and Welsh Assembly Government.

### UK Government

The UK Government must uphold the international human rights standards it has signed up to by:

- **Guaranteeing the right of women with uncertain immigration status fleeing violence or its threat in the UK, access to crisis, temporary and permanent accommodation, specialist support services and essential financial support by: exempting women fleeing violence from the no recourse to public funds requirement.**
- To put in place immediate emergency funding to help women across the UK, while the permanent solution of exempting women fleeing violence from the no recourse to public funds requirement is put in place.
- To guarantee adequate core funding of violence against women services and organisations, including specialist services for Black, Minority Ethnic and Refugee women across the UK

### Further recommendations

- To develop and implement an integrated, strategic approach to tackle all forms of violence against women. Furthermore, steps must be taken to enable the Welsh Assembly Government and the Northern Ireland Executive to replicate the undertaking of an integrated strategy.
- To provide adequate legal aid to ensure access to quality legal advice and support.
- To extend the Domestic Violence Rule to include all abused women with an insecure immigration status and introduce similar protection

for trafficked women subjected to sexual and economic abuse and to overseas domestic workers experiencing violence from their employers.

- To ratify the Council of Europe Convention on Action against Trafficking in Human Beings (ECAT) to the highest possible standards.
- To remove reservations to the UN Convention on the Rights of the Child.

### Northern Ireland Executive, Scottish Government and Welsh Assembly Government

The devolved governments should ensure

- where relevant that Local Authorities, Councils, Housing Executives and Government Departments provide support (including financial support) to women with uncertain immigration status fleeing violence. Support should include providing the means for women to access safe accommodation and other support services they may need as victims of gender based violence.
- that information on the number and needs of women and girls with uncertain immigration status fleeing violence is gathered systematically by all relevant agencies.
- they consult with NGOs and service providers who work in the field of violence against women on how best to address the needs of this group of women in Wales, Northern Ireland and Scotland.
- they support the specialist organisations, especially those working with black and ethnic minority women, in their work to provide services to women fleeing violence.

## ENDNOTES

<sup>1</sup> Refuges provide a variety of services: emergency safe accommodation with 24-hour on-call or in-house staff, advice on navigating the criminal justice system, access to health care services including counselling, help with accessing legal advice, and longer-term support to help women rebuild their lives with advice about accessing education and employment.

<sup>2</sup> Crown Prosecution Service Press Release, 05/02/08 'Family members Convicted of Allowing Sabia's Death' [www.cps.gov.uk/west\\_yorkshire](http://www.cps.gov.uk/west_yorkshire)

<sup>3</sup> Research shows that on average women will endure 35 incidents of domestic violence before reporting it to anyone. Jaffe 1982 cited at [www.refuge.org.uk](http://www.refuge.org.uk).

<sup>4</sup> *Safety and Justice: The Government's Proposals on Domestic Violence*, June 2003, para 18, page 46.

<sup>5</sup> Throughout this report we have chosen to use the term of 'no recourse to public funds requirement', though it is also commonly known as the 'no recourse to public funds rule'.

<sup>6</sup> Southall Black Sisters and the Women's Resource Centre, 'How Can I support her? Domestic violence, immigration and women with no recourse to public funds', 2007.

<sup>7</sup> Reserved matters are areas of policy that only central Government can legislate on, and they include immigration and benefit matters. Reserved matters cannot be legislated on by the Scottish Government, Wales Assembly or the Northern Ireland Executive.

<sup>8</sup> Including the UN Convention on the Elimination of All forms of Discrimination Against Women, the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights and the Convention on the Rights of the Child.

<sup>9</sup> Amnesty International 'Respect, Protect, Fulfil Women's Human Rights: State responsibility for abuses by non state actors', 2000.

<sup>10</sup> Velasquez Rodriguez Case, Judgement of 29 July, 1988, Inter-AM Ct. H.R. (Ser.C) No.4 (1988) Para. 172. 'An illegal act which violates human rights and which is initially not directly imputable to a State (for example, because it is the act of a private person or because the person responsible has not been identified) can lead to international responsibility of the State, not because of the act itself, but because of the lack of due diligence to prevent the violation or to respond to it.' Full text [www1.umn.edu/humanrts/iachr/](http://www1.umn.edu/humanrts/iachr/)

<sup>11</sup> Although some men and boys may indeed face violence within the home or as a result of trafficking for sexual exploitation or forced labour, research shows that the vast majority of victims of the forms of gender-based violence highlighted in this report are women and girls.

<sup>12</sup> 'No help at hand', Alexandra Topping, the Guardian, Wednesday 23 January 2008. See also 'Forgotten women: Domestic violence, poverty and South Asian women with No Recourse to Public Funds', Anitha, Sundari, with Priya Chopra, Waheeda Farouk, Qamar Haq and Saliya Khan, 2008.. Manchester: Saheli (forthcoming).

<sup>13</sup> Scottish Women's Aid 'Women with no recourse to Public Funds Pilot Project: Monitoring report', February 2007.

<sup>14</sup> Kalayaan is the sole non-governmental organisation working with domestic migrant workers who have been victims of abuse and violence.

<sup>15</sup> Interview carried out in Wales in October 2007.

<sup>16</sup> Research from South Eastern Europe also indicates that this is the case for women who have been trafficked. 'Leaving the past behind? When victims of trafficking decline assistance', Anette Brunovskis and Rebecca Surtees, Fafo Institute and Nexux Institute publication, 2007.

<sup>17</sup> Treaties include: the UN Convention on the Elimination of All forms of Discrimination Against Women, the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, and the Convention on the Rights of the Child.

<sup>18</sup> Amnesty International 'Respect, Protect, Fulfil Women's Human Rights: State responsibility for abuses by non state actors', 2000.

<sup>19</sup> For more information please see Southall Black Sister's April 2004 briefing 'A Briefing to amend the Domestic Violence, Crime and Victims Bill' at <http://www.southallblacksisters.org.uk/research.html>

<sup>20</sup> 'No Help at Hand', article by Alexandra Topping, The Guardian, Wed 23 January 2008

<sup>21</sup> Southall Black Sisters submission to the Home Affairs Committee Inquiry into Immigration Controls, March 2006.

<sup>22</sup> Victims are often deterred from seeking help or leaving a violent partner 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.

<sup>23</sup> For instance the work of Southall Black Sisters such as their 2006 resource pack for service providers and other organisations: '*How can I support her? Domestic violence, immigration and women with no recourse to public funds*'.

<sup>24</sup> Women's refugees were entitled to apply to the fund for a maximum period of 8 weeks for financial support towards a woman's living costs and/or rent. This money quickly ran out and no further funds have been forthcoming. (Southall Black Sisters Submission to the Home Affairs Committee Inquiry into Immigration Controls).

<sup>25</sup> Under the Supporting People framework, organisations including refuges can access funds but only for support workers or outreach workers, not to pay the refuge's rent, or subsistence for the women to buy necessities such as food and clothing.

<sup>26</sup> Hansard 20 December 2004: Column 1504W. [www.publications.parliament.uk](http://www.publications.parliament.uk)

<sup>27</sup> Southall Black Sisters submission to the Home Affairs Committee Inquiry into Immigration Controls, March 2006.

<sup>28</sup> 'A Stark Choice – Domestic Violence or Destitution', Southall Black Sisters, June 2007.

<sup>29</sup> No Recourse To Public Funds Network Briefing on Domestic Violence July 2007, written by Islington Council in consultation with Southall Black Sisters

<sup>30</sup> Telephone interviews with Women's Aid Federation Northern Ireland, October 2007

<sup>31</sup> The Committee on the Elimination of Racial Discrimination General Recommendation No.30: Discrimination Against Non Citizens dated 1 October 2004.

<sup>32</sup> Council of Europe Recommendation Rec(2002)5 of the Committee of Ministers to member states on the protection of women against violence adopted on 30 April 2002.

<sup>33</sup> The UDHR Articles highlighted include rights that are reinforced in legally binding treaties including the Convention on the Elimination of all forms of Discrimination Against Women and the International Covenant on Civil and Political Rights.

<sup>34</sup> These rights are expressly recognised as 'non-derogable' in article 4 of the ICCPR, and include the right to life, the right not to be tortured or subjected to cruel, inhuman or degrading treatment and slavery and the right to recognition before the law.

<sup>35</sup> Southall Black Sisters, Submission to the Home Affairs Committee Inquiry into Immigration Controls, March 2006.

<sup>36</sup> Homicide Statistics 1998, cited [www.refuge.org.uk](http://www.refuge.org.uk).

<sup>37</sup> Interview with refuge worker on 23 October 2007.

<sup>38</sup> 'Human Trafficking for Sexual Exploitation in Wales, Amnesty International UK, 2007.

<sup>39</sup> Memorandum from BAWSO to Amnesty International UK providing information for this report, January 2008.

<sup>40</sup> Kalayaan Briefing on Migrant Domestic Workers and Trafficking, April 2007: [www.kalayaan.org.uk/](http://www.kalayaan.org.uk/)

<sup>41</sup> Article 3 Convention of the Rights of the Child.

<sup>42</sup> Interview with refuge worker on 24 October 2007.

<sup>43</sup> In Northern Ireland, the Northern Ireland Housing Executive assesses housing benefit entitlement.

<sup>44</sup> Interview with refuge worker on 24 October 2007.

<sup>45</sup> Interview with refuge area manager on 15 October 2007.

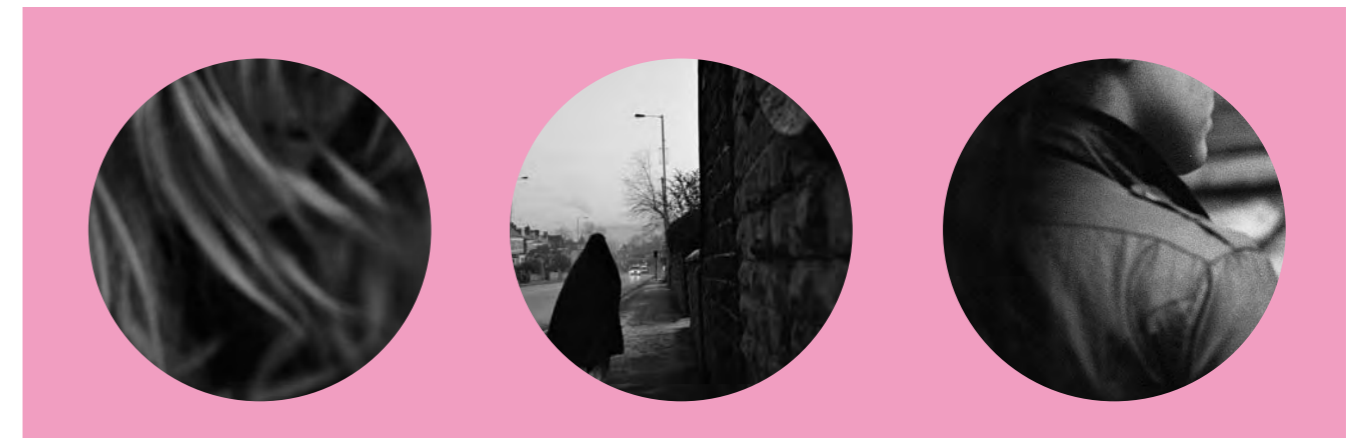
<sup>46</sup> Interview with refuge worker 24 October 2007.

<sup>47</sup> When the Government ratified the UNCRC in 1991 it put in place a general reservation relating to immigration and citizenship. This means that refugee and asylum seeking children are not afforded the same universal rights as 'citizen' children.

<sup>48</sup> Although Declarations are not legally binding in the same way as treaties and conventions, they still outline the aspirations of States towards their human rights obligations.

<sup>49</sup> Velasquez Rodriguez Case, Judgement of 29 July, 1988, Inter-AM Ct. H.R. (Ser.C) No.4 (1988) Para. 172.

<sup>50</sup> Safety and Justice: the Governments Proposals on Domestic Violence, June 2003, para. 18.





**‘We rely on food parcels, donations of clothes, pushchairs - all from charity. It’s as if they’re not human enough to have basic human needs - food, shelter, clothes, they can’t even get that.’**

The UK government’s ‘no recourse to public funding requirement’ is having a devastating impact on women victims of violence.

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