SAFE REPORTING OF CRIME FOR MIGRANTS WITH INSECURE IMMIGRATION STATUS

ROUNDTABLE REPORT

STEP UP MIGRANT WOMEN UK

LATIN AMERICAN WOMEN’S RIGHTS SERVICE

MAY 2018
SAFE REPORTING OF CRIME FOR MIGRANTS WITH INSECURE IMMIGRATION STATUS

On the 12th of March 2018, MOPAC’s Victims’ Commissioner hosted a roundtable discussion with 8 key stakeholders, including organisations directly supporting migrant groups and specialist women organisations to initiate a conversation and improve the understanding of the barriers to reporting faced by migrant victims with insecure immigration status.

This report was prepared by the Latin American Women’s Rights Service to provide context for future steps and an overview of the discussion, which covered the following points:

1. **Legal framework**: Police duties under the Human Rights act and safe reporting for people, by Open Society Foundation.

2. **Brief overview of barriers to reporting for migrant victims**.

3. **Barriers to safe reporting of violence against women and girls (VAWG) facing women with insecure immigration status**. Cases by LAWRS Step Up Migrant Women campaign, and research by EVAW.

4. **Barriers to safe reporting of hate crime facing victims with insecure immigration status**. Cases by UKREN and MRN.

5. **Responses from police forces across the country to the need for safe reporting**. Natalie Bloomer, independent journalist.

6. **Examples of good practice in Europe**. MRN and LAWRS.

Roundtable participants:
- Latin American Women’s Rights Service (LAWRS)
- Migrants Rights Network (MRN)
- Open Society Foundation
- UK Race and Europe Network (UKREN)
- Iranian & Kurdish Womens Rights (IKWRO)
- IMECE Women’s Centre
- End Violence Against Women Coalition (EVAW)
- HESTIA.

Other contributors: Rights of Women (ROW), Southall Black Sisters (SBS), London Black Women’s Project (LBWP), Women for Refugee Women, Natalie Bloomer, independent journalist.
1. LEGAL FRAMEWORK
SIMON COX, OPEN SOCIETY FOUNDATION

Police duties to ensure people with insecure migration status can report crimes without fear of immigration enforcement

A. Immigration enforcement policies breach the Human Rights Act 1998 if they conflict with the police duties under that Act to prevent and punish serious crime and to protect victims of serious crime. These police duties - to the whole community - require that undocumented migrants have a right to report serious crime to the police without fearing that their report will lead to immigration enforcement action against them or their family.

POLICE DATA-SHARING WITH IMMIGRATION ENFORCEMENT

B. Metropolitan Police data on victims and witnesses of serious crime is routinely made available to Home Office immigration enforcement officials. These officials used this data for immigration enforcement action against those victims and witnesses whose immigration status is insecure.1

C. Fear of deportation deters victims and witnesses of serious crime from reporting those crimes to the police. The fact that deportation is legally barred where this would breach the migrant’s human rights does not assure victims and witnesses that they will not be at risk of deportation if they report a crime to the police.

D. There is no publicly available policy or practice identifying any legal duty on the police to share the data of people with insecure immigration status with Home Office immigration enforcement staff.

POLICE DUTIES UNDER HUMAN RIGHTS ACT

E. Section 6 of the Human Rights Act 1998 requires public authorities not to act in a way that is incompatible with human rights, unless required to do this by an Act of Parliament. The police are a public authority. The human rights are those set out in the European Convention of Human Rights (ECHR).

Human Rights Act duties to detect and investigate serious crimes of bodily harm

F. The ECHR requires the United Kingdom to:
   a. protect the right to life (Article 2)
   b. prevent torture and inhuman and degrading treatment (Article 3)
   c. prevent slavery, servitude and forced labour (Article 4).

G. The “positive” aspects of these duties require that the public authorities criminalise acts against these rights and enforce these criminal laws to prevent and punish these crimes and to protect victims.2

1 Insecure immigration status refers to people whom the immigration authorities expected to have proof of right to reside; and to people who could prove a time-limited right to reside but who could lose it

2 See European Court of Human Rights judgment in Rantsev v Cyprus & Russia, judgment of 7 January 2010, para. 12: “Article 2 enjoins the State not only to refrain from the intentional and unlawful taking of life but also to take
H. The UK implements these human rights duties through:
   a. Criminal law, such as murder, attempted murder, rape, serious bodily harm, assault, false imprisonment and crimes related to forced labour
   b. Police operations: receiving reports of these serious crimes, investigating them, referring cases to the CPS
   c. CPS prosecution and Court conviction and punishment of offenders for these serious crimes.
I. It follows that the police role in receiving and investigating reports of these kinds of serious crimes is part of the police duties under the Human Rights Act.

**EFFECT OF POLICE HUMAN RIGHTS DUTIES ON IMMIGRATION ENFORCEMENT POWERS**

J. The Immigration Acts create criminal offences of illegal entry and overstaying immigration leave. These Acts give the police powers to arrest persons suspected of these offences.

**Current police practice on making data available violates the Human Rights Act**

K. The police power to enforce immigration rules is not a duty under the Human Rights Act.

L. Any police policies, practices or operations exercising the power to enforce immigration rules must comply with the Human Rights Act and so must not conflict with or undermine the police duties to uphold criminal laws protecting life and preventing bodily harm, such as rape, assault and false imprisonment.

M. These *overriding duties* apply at all stage of police work: policy, practice and actual implementation.

N. The current police practice of making data on victims and witnesses available to immigration enforcement officials undermines the confidence of victims and witnesses with insecure immigration status to report evidence of serious crimes to the police. This practice therefore undermines police ability to prevent, detect and punish serious crimes against not only these migrants, but also other people who could be victims of the same offenders.

O. Current police practice is therefore incompatible with the human rights duties of the police under Articles 2, 3 and 4 ECHR.

**Police duties to prevent serious crime do not prevent deportation of victims and witnesses**

P. Immigration enforcement policy or action is unlawful if it would undermine police ability to prevent, detect and punish serious crimes.

Q. This does not mean that it is always a breach of human rights to deport victims and witnesses of crimes. Whether deportation of an individual would breach human rights of an individual depends on whether deportation would lead to serious ill-treatment of that person, would be disproportionate to the family and private life rights of the individual and others, or would undermine the public interest.

appropriate steps to safeguard the lives of those within its jurisdiction (see *L.C.B. v. UK*, 9 June 1998, § 36, Reports 1998-III; *Paul and Audrey Edwards v UK*, no. 46477/99, ECHR 2002-II, § 54). In the first place, this obligation requires the State to secure the right to life by putting in place effective criminal law provisions to deter the commission of offences against the person backed up by law enforcement machinery for the prevention, suppression and punishment of breaches of such provisions; and para. 284-285 applying the same approach to Article 4 ECHR.
R. This protection for individuals does not make current police practices lawful. It is the threat of immigration enforcement that deters victims and witnesses from reporting crimes to the police, and which therefore undermines police ability to prevent, detect and punish serious crimes.

SAFE REPORTING FOR PEOPLE WITH INSECURE IMMIGRATION STATUS

S. To comply with the Human Rights Act, police policy and practice on immigration enforcement must avoid deterring victims and witnesses from reporting serious crimes. Since deportation has this effect, the police must guarantee victims and witnesses that the reporting and co-operation with investigation of a serious crime will not lead to any police action which would result in immigration enforcement action.

T. This should include a guarantee that staff responsible for immigration enforcement will not have access to any personal data of the victims or witnesses concerned.

1.1. Additional points brought forward in relation to safe reporting of VAWG, LAWRS.

U. The Statutory Guidance framework: Controlling or Coercive behaviour in an intimate or Family Relationship, published by Home Office in 2015, is aimed at assisting the work of Police and criminal agencies under Section 77 of the Serious Criminal Act (2015) in investigating offences in relation to controlling and coercive behaviour. In reference to immigration status, the guidance states:

“Those subject to immigration control may face additional barriers when attempting to escape domestic abuse. These circumstances may make them more reluctant to come forward and report abuse. Such circumstances may also be exploited by perpetrators to exert control over victims, for example, by threatening to inform immigration authorities, or to no longer support their stay. In some circumstances victims may be allowed to stay in the UK if they can show they have experienced domestic abuse in a relationship with a British person or settled partner (see UK Visas and Immigration website)"\(^3\)

V. In addition, the guidance mentions immigration status being used as an ‘Offender’s tactics’: “Perpetrators can be particularly adept at manipulating professionals, agencies and systems, and may use a range of tactics in relation to this offence, including: using threats of manipulation against the victim. For example, by telling the victim that they will make a counter-allegation against them, that the victim will not be believed by the police or other agencies, that they will inform social services, or that they will inform immigration officials where the victim does not have a right to remain\(^4\)”

W. The College of Policing publication on Major Investigation and Public Protection under the Victims Safety and Support page (2016), the importance of safety plans is highlighted for victims to overcome specific barriers linked with their ‘insecure immigration status’. In the ‘Checklist to develop safety plans with victims’, they state:

\(^3\) See Paragraph 23, page 7: Immigration Status as ‘Other considerations’ in Controlling or Coercive Behaviour in an Intimate or Family Relationship Statutory Guidance Framework (2015) Published by Home Office.

\(^4\) See paragraph 32, page 11: Immigration Status as part of ‘Offenders Tactics’ in the same published Home Office guidance.
“Domestic officers should consider that victims with insecure immigrations status from minority ethnic communities, victims with disabilities or from socially isolated community may fear contact with the police- such individuals or groups may have additional barriers that need to be overcome in safety plans”

2. BRIEF OVERVIEW OF SOME OF THE BARRIERS TO REPORTING FACED BY MIGRANT VICTIMS

LATIN AMERICAN WOMEN’S RIGHTS SERVICE

The following barriers were highlighted at the roundtable as particularly affecting migrant victims:

a. **Language barrier**: migrants unable to speak English find it extremely difficult to find information, approach agencies and seek support. The language barrier also greatly affects the ability of victims to explain their situation and case, and is often used by perpetrators as a way to exercise control. It is important to note that when confronted by traumatic experiences or in situations of crisis, migrants of all levels of English language knowledge may revert to their first language and face difficulties in explaining their situation.

b. **Lack of knowledge of the system**: migrants, particularly those unable to speak English or in isolation, have low access to information about their rights, about what constitutes a crime, where to seek help and how to access interpreting services. Lack of knowledge of the system is often employed by domestic violence perpetrators who purposely misinform victims about their rights and options.

c. **Lack of trust in the police**: negative experiences with police forces both in migrants’ countries of origin and in the UK were reported by specific communities as being a key barrier to reporting.

d. **Access and interpreting**: general access barriers (e.g. working conditions, lack of resources to report via phone, in person or the Internet, etc.). Migrants are also not aware of interpreting services available.

e. **Police lack of knowledge of circumstances of migrants**: lack of awareness among police officers about the barriers listed above and the additional vulnerabilities that specific migrant communities and individuals face, which affect their self-identification as victims and their ability to report crimes, including intersectional issues (gender, disability, mental health, etc.).

f. **Police burden of acting as immigration officers**: individual police officers expected to or taking on the task of acting as immigration enforcement agents due to lack of clear rules. This erodes trust among migrant communities and distorts the purpose of the police.

g. **Hostile environment as a barrier to reporting**: these barriers do not operate in isolation. At the moment, reporting to other agencies is also blocked by data sharing and hostile environment policies. As

---

a result, migrant victims are reluctant to exercise their rights due to policies and narratives that target previous ‘safe spaces’ (health, social services, education, police), leading to less reporting and less referrals to support services due to fear of deportation and destitution.

3. BARRIERS TO SAFE REPORTING OF VIOLENCE AGAINST WOMEN AND GIRLS (VAWG) FACED BY WOMEN WITH INSECURE IMMIGRATION STATUS

STEP UP MIGRANT WOMEN CAMPAIGN, LAWRS

a. Immigration status as a tool for control and abuse:
As highlighted in the Home Office’s ‘Controlling or Coercive behaviour in an intimate or Family Relationship Statutory Guidance Framework’, women with insecure migrant status often report perpetrators use their legal status to exert abuse and control by threatening them with deportation. In numerous instances perpetrators controls entire visa application processes. LBWP and the specialist sector have identified that perpetrators are often in control of filing applications; providing updates to the women progress and status; controlling finances involved or alleging they are involved in, and controlling communication with lawyers and officials.

Research by Imkaan (2012): a survey study with 183 women with insecure migrant status, 92% stated that they received threats of deportation from perpetrator.6

GG, LAWRS service user: GG came to the UK in 2015 from Brazil, she was convinced by her British partner that she would have a spousal visa, but he later refused to apply for one. G endured domestic violence and repeatedly received threats of deportation as he took away and hid her passport and documents. She reported the abuse to the Police but was refused support on the basis of being NRPF and an overstayer. She became destitute and lost custody of her daughter. G is supported by LAWRS in her legal battle for child custody, to access safe accommodation and was recently granted temporary status (6 months).

Yanelle, WRW case: Yanelle was a political dissident from West Africa, where she was taken to prison and then gang-raped at gunpoint by a group of police officers. She moved to the UK and filed a refugee application; however, due to receiving incorrect legal advice, she was refused asylum. Whilst applying

for refugee status she was continuously sexually harassed by dozens of landlords who threatened to "send her back to her country" if she reported to the police.

b. Women often become undocumented as a result of violence:
VAWG might be a reason for women to migrate from their home countries, but women may also become undocumented as a consequence of, and for the purpose of abuse and coercive control. Victims are often made undocumented or deceived about their legal status by their perpetrators.

**AE, LBWP case:** AE came to the UK 5 years ago with her husband and their two children. She left her husband due to DV. She was a victim of FGM and said she could not go back to Nigeria because her two daughters were at risk of being cut.

The perpetrator told her that he had been managing the paperwork regarding their immigration status but she found out that it was a lie, and that she was now in the country as an overstayer. She sought immigration advice but was wrongly advised. She feared detention and deportation. Because of the FGM risk, LBWP could work with her to start a case for asylum. The problem: she required letters of support and her close friend refused her request. She is left in a state of limbo, uncertainty and risk. The friend refusing the letter of support also has insecure immigration status and believes she will be deported.

c. Immigration status is also behind other forms of threats, including not being believed, losing their children, or becoming destitute as a result of reporting (benefits, housing, employment, etc.):
The current Immigration Act 2015 and 2016 has created more barriers for women and their children with No Recourse to Public Funds (NRPF) to access support, shelter and access to care. According to Women’s Aid, a member in the campaign for safe-reporting, only 7% of women with NRPF were accommodated in shelters when fleeing violence in 2017. As illustrated below, women with insecure migrant status often refuse to report out of fear of deportation as well as their wellbeing. Imkaan (2008) also found that women with NRPF and those with insecure migrant status suffer mental health illnesses such as depression, psychosis and suicidal ideation. Fear to disclose their immigration status leads to isolation, psychological deterioration, economic dependency and threats with deportation.

**Gracie, WRW case:** Grace came from West Africa at the age of 17 after being a survivor of forced marriage at the age of 15. Grace came with her sister to London and assisted by her uncle to buy short-stay visas.

They were soon exploited by families who used them as domestic servants, as well as being subjected to sexual violence by the men in the house. Grace and her sister were destitute, lacked knowledge of the legal system and were scared to report as she feared deported. One night, her sister went missing but

---

7 Women’s Aid (2017) Nowhere to turn, No Women Turned Away project, Federation fo England p.32
8 Imkaan (2008) No Recourse No Duty of Care: Experiences of BAMER Women and Children affected by Domestic Violence and Insecure Immigration Status in the UK
Grace couldn’t report to the Police and 10 years later she is still missing. Grace is seeking asylum after enduring 20 years of sexual exploitation. She is being supported by WRW, and is now aged 37.

**KB, LAWRS case:** KB came to the UK in 2009 from Bolivia with a 6-months student visa. She met her partner and lived with him for 2 years with their two daughters. She became a victim of emotional and psychological abuse. KB did not report to social services and the police out of fear of her daughters being taken away and of being deported. Her ex-partner threatened her with this which caused her anxiety leading to suicide attempts by drinking bleach at one point. She was denied refuge because of her immigration status and has continued to live with perpetrator in the same house. She is currently supported by LAWRS VAWG team and an immigration lawyer.

d. **Reporting to the Police: denial of access to support to women with insecure immigration status**

Women who approach the police to report violence are told that their immigration status does not allow them to access or submit a victim’s statement is in violation to the Victim’s Code (2015) and to the Human Rights Act (1998). Victims with insecure migrant status reporting a serious crime (i.e. domestic violence, sexual violence) are entitled to a series of provisions from the public authorities such as being treated with respect in a non-discriminatory way, as well as being informed about the processes of her case. In numerous cases, migration status being prioritised has undermined the access of women to support services and assisting victims of serious crime, violating their ‘duty of care’ as a statutory agency. Cases below illustrate the violations of their right to not subjected to torture or degrading treatment (Article 3) and to the right to Family and Private life (Article 8).

**Imece case:** AN, a turkish woman, had been experiencing harassment and abuse from her ex-husband. During their relationship AN was subjected to sexual, physical, financial and psychological abuse. AN was also a victim of rape and psychical abuse by her ex-husband who upon AN’s return from an operation proceeded to force himself upon him. When recalling the incident, AN described her state as being very vulnerable, where she still had fresh wounds from the surgery which her ex-husband did not care for.

AN was very affected by this particular incident and began to arrange for the divorce proceedings to take place. AN was subjected to various forms of so-called ‘honour’-based violence (HBV) with threats to hers and her family’s lives from her ex-husband and his 2 brothers. AN was very concerned for her own wellbeing and that of her family’s at this time and approached the police to report the abuse and threats she was being subjected to. AN was told by the police that she could attempt to take this report further to obtain a non-molestation order against her ex-partner however that she would better equipped to sort out her immigration status first.

Following these instructions AN finalised her divorce proceedings whilst continuing her efforts in being granted a more stable visa status in the UK. AN had originally come to the UK on a Spousal Visa, however upon divorcing her ex-husband reapplied for her visa on the grounds of Compassionate Care due to her

---

illness. At the time of the incident AN was not aware she would have been able to apply for DDV concession or ILR on the basis of domestic violence and was not known to D.V. services. Her application had since been rejected and AN had begun work with her solicitor to appeal the decision.

AN was particularly vulnerable as she is currently ongoing treatment for a rare form of cancer. AN is routinely seeing treatments, operations and surgery to keep her illness under control. Perpetrator in the past has used her vulnerable state to be physically and sexually violent towards AN of which AN still has traumas about.

e. Reporting to the Police: questioning of women around their insecure immigration status

Migrant women who report on crimes including serious harm often have to engage with the criminal justice system due to their immigration status, instead of being assisted to access protection and justice including support from IDVA’s and interpreters. As with Shilpa’s case below, Southall Black Sisters stated that the questioning of the police remains highly discriminatory since these women are not afforded the same approach or response to that of other women in society. Organisations’ casework in the women’s sector show how policing functions are carrying out immigration policing functions as paramount to their investigation processes. The EU Victims Directive\(^{10}\), provides minimum standards for EU members states including the UK into how victims’ safety and dignity is above administrative status. In this context both cases below represent practical barriers in accessing protection and ‘being believed’ as VAWG survivors.

**Southall Black Sisters:** Shilpa was subjected to domestic violence which included threats to kill and attempted strangulation. She was left stranded by her perpetrator (husband) and was assisted by SBS to report her experiences to the police. Instead of investigating her report of domestic violence, the police appeared to be more interested in her immigration status. They took her away from SBS’ offices where she felt safe to the police station stating that they needed to take a full statement from her. At the station, they asked her questions about her immigration status causing her to panic and become distressed. SBS was forced to intervene to remind the officers that their priority was to assist her as domestic violence victim and not to police her immigration status. The police appear to have taken no further action in respect of her husband’s threats and assault on her.

**LAWRS case:** NF was in a relationship in which an argument with her partner ended in physical violence from both sides. When the police arrived, NF was questioned by the police officer but her English and the state she was in did not allow her to say much. She was then arrested and taken to the police station. During her time in jail she was questioned by an immigration officer who asked her about her immigration status.

This experience was very traumatic for NF, as she was a victim of physical abuse and called the police to report and ended up being treated as a perpetrator, discriminated against for her lack of English and questioned because she was a migrant.

---

NF wanted to file a complaint against the police, a LAWRS caseworker signposted her to a specialised solicitor to take action against the police. They could not take the case as she did not qualify for legal aid. NF decided to drop it all as it was too stressful for her to deal with without legal help. NF had a very negative experience with the police and they made her experience of abuse even more traumatic.

f. Being given immigration advice as having ‘no rights’ or being refused for their ‘own good’.
VAWG support services have identified a number of cases where, in first and second investigation stages, women with insecure immigration status are given unlawful immigration advice by the police, often incorrect and delaying the reporting process. In the cases below, women are denied support because, according to the police, they have “no rights in the country”. The organisation Rights of Women report in their casework victims often refer to advice given by the police around their rights in the country. These women highlight that advice includes police telling them to “sort their immigration issues first” before approaching the police. This increases their risk of violence as well as promoting a two tier system of justice affecting the rights of migrant victims.

IKWRO case: In 2015, IKWRO worked with a woman who was a victim/survivor of trafficking in the form of domestic servitude. Rather than recognising her as someone made vulnerable by perpetrators of crime, who was in need of protection and support, the police treated her as a criminal and locked her in a cell. It took a legal ‘actions against the police’ case, which resulted in compensation, to change the way she was being treated.

RA, LBWP case: RA approached LBWP because she was experiencing DV and she had come to the UK on a spousal visa. Examples included restrictive movement, financial control, keeping one twin at home while she was out with the other twin to ensure she would not flee the home, verbal, emotional and physical abuse. The perpetrator also used her immigration status against her telling her that if she phoned the Police then she would be arrested and deported. He also said the court would award the children to him because she had no money and could not speak English.

The police told her she had no rights in the UK because she was illegally remaining in the country.

At one point, she believed her husband has made an application to the HO but didn’t pay the fee. Her husband refused to tell her what application he had made. After one incident LWBP advised that she contact the Police. The Police said that they were not sure who the perpetrator was and who the victim was because after interviewing the husband, he told them that she was an overstayer. This suddenly became an immigration case and not a DV case.

g. Reporting to the Police: MARAC/ Social Services and immigration enforcement:
Social services and MARAC from local authorities have incorporated immigration matters when discussing safety plans for VAWG survivors at high-risk of serious harm.
Social Services: IKWRO raised concerns over dangerous messages given to women by social workers. Regularly women report having been told “why don’t you just go home”. Social workers, in positions of power and authority have told mothers to leave their children. IKWRO and other organisations mention that women with insecure migrant status are at a higher risk of their children being taken into care, causing trauma and delinking the work with families. “Too often care proceedings lead to adoption proceedings, with the potential to cause irreparable damage”.

MARAC: Southall Black Sisters highlighted how immigration officials in MARAC meetings have created a culture that conflicts with MARAC’s aims to ensure safety and protection. Southall Black Sisters and multiple organisations are concerned with best practice of local authorities and the refocusing of immigration issues of the victims and perpetrator.

Southall Black Sisters case: At Ealing MARAC, a situation from a high-risk victim was discussed. The perpetrator had insecure status and the social services representative said “the best course of action” for the woman, would be if the perpetrator was deported. Caseworkers challenged this; the purpose of MARAC was protection and not immigration enforcement; it was wrong and discriminatory to try and use the forum to deprive someone (perpetrator or victims) of their immigrations status by the back door; and further taking such action may actually place the woman at further risk of repercussions from the perpetrator or his family if she was seen to be ‘colluding’ with the immigration authorities.

3.1. Research

a. Migrant women and the CJS: University of Bristol’s research project, Justice, Inequality and Gender-Based Violence (2018)\textsuperscript{11}, Andrea Simon, End Violence Against Women Coalition (EVAW)

The Justice Project team conducted a interviews with 251 women victims of VAWG where 37 had insecure migrant status and the other 202 held UK/ EU status or ‘secure’ status. Key findings include women with insecure migrant status being destitute at higher rates as a result of VAWG and experiencing multiple perpetrators in lifetime. Moreover, police conducted fewer investigations, fewer civil injunctions were provided and fewer migrant women accessed to family court.

Key findings:

Group characteristics

- Most interviewees (95%) were BME, compared with only 20% of the UK/EU interviewees.
- \textbf{27\%} of women with insecure migrant status were left \textbf{Destitute} as a result of being on spousal visas/NR.
- On proxy measures of poverty the women with insecure migrant status were particularly vulnerable:
  - Similar individual incomes to the British/EU nationals.

- Slightly more reported one or more significant financial impacts of abuse.
- Slightly more not in paid work.

**Experiences of abuse**

- Women with insecure migrant status significantly mentioned more **multiple perpetrators** (41% vs 14%)
- Significantly more **reporting HBV, FM, FGM** (to be expected)

**Justice accessed**

- Similar % police report and arrest made in case
- Fewer police investigations and significantly fewer proceed to criminal charge
- Fewer have a civil injunction, fewer access the family court, fewer seek justice via alternative/informal routes.

**Recommendations: Support and prevention services**

- There is a justice gap in the access to **criminal justice**. As stated significantly fewer cases involving non UK/EU nationals proceeded to a criminal charge, despite them being as likely to report to police in this report.
  - The **Criminal Justice System is challenging for migrant women**: they can be penalised, even deported, when they report to the CJS with irregular status (Justice Project data suggests police are less likely to pursue criminal action and lower rates of charge – table 3). As well as needing to address this in the CJS, they may also benefit from ongoing civil protection options, as migrant women were less likely to access civil protection orders.

- Migrant women have **specific needs, which are often best served by specialist services**.
  - Those with No Recourse to Public Funds are especially vulnerable as they are more vulnerable to specific forms of abuse than UK/EU women including forced marriage, honour based violence and female genital mutilation.
  - Migrant women face particular barriers of conceptualisation, shame, language, and cultural understandings. They require culturally-sensitive support to disclose and access help (Justice project interviewees talk about these issues).
  - Migrant women more at risk of poverty (Justice project data (as stated above) show that 27% of the migrant interviewees were left Destitute as a result of being on spousal visas or having No Recourse; a higher proportion were homeless or in refuge, whereas fewer were council tenants or owners).

- **Advocacy is vital for all women**, including migrant/insecure status women. Forthcoming analysis of the Justice Project data from police case files of DV/Rape shows that, where women had specialist advocacy support, the case was significantly more likely to proceed to a criminal charge.
b. We can’t fight in the dark: violence against women and girls (VAWG) among Brazilians in London

Funded by the Economic and Social Research Council. Focusing here on the London case, this project explores service provision based on interviews with 12 providers (see Evans and McIlwaine, 2017), as well as a survey with 175 women, together with 25 in-depth interviews and 5 focus group discussions. The fieldwork was conducted in partnership with LAWRS.

Key findings:

Incidence of VAWG

- Four in every five Brazilian women in London have experienced Gender-based Violence (GBV) in their lifetime (82%).
- Nearly half (48%) of all women had experienced some form of GBV in the UK.

Experiences of abuse

- Emotional/psychological violence was the commonest type of violence experienced in London (48%), followed by physical violence (38%), with 14% experiencing sexual violence.
- Two-thirds of VAWG was perpetrated by men known to women; almost a quarter was by an intimate partner (IP), whilst employers and colleagues in the workplace together accounted for over a quarter.

Reporting and seeking help

- Reporting VAWG amongst Brazilians in London is limited and hampered by lack of information, shame, fear and insecure immigration status. Reporting is affected by a range of different barriers including women not always being aware of what VAWG refers to, especially in relation to emotional/psychological violence. As a result, many are often made aware of VAWG indirectly through accessing other services.
- A majority (56%) of women never reported an episode of violence in London, mainly because they thought nothing would be done about it, lack of information, shame and fear of deportation due to insecure immigration status.
- Reporting to the police was mainly a negative experience, especially when women had irregular immigration status.
- Women in their 40s, who had been in London for less than a year, were single and dependent on state benefits or on a partner’s income were the least likely to seek help.
- Lack of awareness about what constitutes VAWG delays help-seeking; many women only disclose when seeking help for other problems.

---

4. MIGRANTS FACING HATE CRIME: ROMA COMMUNITY AND REPORTING OF CRIME

ALAN ANSTED, UKREN AND MRN.

a. Evidence on barriers to reporting by victims of hate crime and some good practice in addressing these barriers

ReportRacismGRT.com is a third party reporting and support site run by the NGO ‘Herts GATE’ for Gypsy, Roma and Traveller victims of hate crime and hate speech. It has the backing of those three groups. Their data of 125 cases of hate incidents logged on the site over the last year, shows that 99 did not report the incident and only 26 did report to police. That’s 75% did not report. The reasons for not reporting were given as:

- 34% I did not think the police or authorities would do anything
- 27% The incident is too common an occurrence to report
- 8.5% I would have felt ashamed, embarrassed or uncomfortable
- 8% I did not know how to report
- 6.8% I thought it would be too much trouble to report it.

This is echoed in MRN’s iStreetWatch third party reporting site’s recent report that says:

“Despite the vast number of people affected, hate crime data collected by police or third party reporting centres significantly underestimates the scale of the problem, as many incidents go unreported. The most recent figures available from the Crime Survey for England and Wales, which provides a good estimate of the actual amount of crime experienced by individuals and households, suggest that only one in four hate crimes are reported to police.”

There are a number of barriers to people reporting these experiences. One is that the threshold for what constitutes a hate crime is not always clear, and so-called 'low-level' hate incidents are often not classifiable as hate crimes per se. Relatedly, for many victims these 'low level' hate incidents occur with such frequency that they become normalised and seem like an inevitable part of life. As one young interviewee, Mohammad, put it: 'If you had a pushchair and you accidentally hit someone they’d tell you to go back to your home country. But it didn't really both me, I didn’t really care to be honest, because I know I was born here. I know I’m as British as anyone else'.

Zara reported to iStreetWatch a racist incident in London that left her feeling angry and hurt. She describes what happened as follows:

“I was on the tube, and these two ladies were sitting next to me, and I caught her eye, the woman on my right, and I smiled at her, and then she looked at me and said ‘You’re not English are you?’ and I was really taken aback and shocked. I was just trying to be friendly, and it was like a moment of identity crisis, which I have a lot, being dual-heritage, because my father is English and my mother is Indian, so a lot of the time I don’t feel English and I feel a bit different. But at the same time I’m a Londoner, I was born here, and I didn’t want her to just assume. How dare she just assume what I am or what I’m not? So I just looked back at her and said, ‘Actually, yes I am.’”

Zara says she would have appreciated if someone had spoken up or offered support in the moment, but her fellow passengers remained silent. Later, she made a report to the British Transport Police, the first time she had ever reported such an incident, but she describes the process as traumatic, distressing and confusing. At one point Zara was asked ‘What colour are you?’ by an officer over the phone, an insensitive
question that Zara found difficult to answer. She says she would be unlikely to report to the police again, unless the incident was more serious in nature.

Britain’s largest ever study into hate crime victimisation, the Leicester Hate Crime Project, found that 56 percent of people targeted because of their religion had not reported their most recent experience of hate crime to anyone. This figure rose to 60 percent for ethnically-motivated hate crime. The most common reason for not reporting racist or religiously-motivated hate crime was feeling like the police would not take the matter seriously.”

In Rotherham a third party hate crime reporting site receives more reports than Yorkshire police do from people in Rotherham, because the local BAME communities trust in the police is at such a low level. The police routinely allow extreme right wing marches through predominantly BAME residential areas. Peaceful protesters against these marches have been arrested by police and prosecuted, rather than any action taken against extremist marchers (Rotherham 12).

The EU Fundamental Rights Agency data shows that across the EU 90% of victims of hate crime do not report to the police.

Case study. A Romanian female Roma street magazine seller was repeatedly abused verbally and physically by a woman. Nearby market traders phoned the police each time but the police gave it a low priority to investigate as the attacker had by that time moved on. But the distress caused to the Roma woman was great. She went to the police station to report the incident. She was told to come back when she spoke better English. She went to a NGO, Roma Support Group, for help. They accompanied her to the police station and translated for her (police do have access to a translation telephone service). Report taken but nothing happened from the police for a year. The attacks on the Roma woman continued. Then as part of a project the case was discussed with knowledgeable officers. They took the case number and took action. The perpetrator was identified and given a formal warning. The abuse stopped, and the CPS decided not to prosecute. However recently the attacks have started again. The victim this time does not want to bother the police. She believes that abuse is part of living in Britain and fears that as a low income street magazine seller, she may be ‘deported’ (administrative removal).

5. RESPONSES FROM POLICE FORCES FROM ACROSS THE COUNTRY TO SAFE REPORTING

NATALIE BLOOMER, INDEPENDENT JOURNALIST.

Responses to Freedom of Information requests in England and Wales from 45 police forces confirm that 27 of these share victims’ details with the home office for immigration control purposes and only three responded that they do not share victims’ information. The rest of the forces responded with neither a yes or no, or stating that they do not have enough information to respond.

The responses show that there is no clear interim guidance or policy across forces in place relating to this. Some forces advised that victims would only be handed over if they posed a significant risk, while others said it was the responsibility of individual police officers to identify who should be referred.

West Mercia Police 9215 and Warwickshire Police 00028 reply to the FOI was:
“The two force Alliance apply the interim guidance issued on 20th December 2017 jointly by Chief Constable Shaun Sawyer, Chief Constable Andy Cooke QPM, and Chief Constable Simon Bailey, the National Police Chief Council respective leads for Modern Slavery & Human Trafficking, Serious & Organised Crime, and Vulnerability. This interim guidance states:

‘Where a person has reported to police that they are a victim of crime, particularly ones of significant vulnerability, police forces will treat them as victims first and foremost. Where the investigating officer considers it appropriate to enquire as to their immigration status due to reasonable doubts about their legal status in the UK, immediate arrest will not be made. Only where there is intelligence or information, either from police databases or immigration Enforcement, that the person poses an immediate risk of harm to a specific individual or a wider group of people, should an immediate arrest be made’.”

After the Interim guidance had been issued by chief constables, Northants and Northumbria police forces FOIs requests found that these forces were not following the guidance, both mentioning that they refer victims to the UK Border Agency. Northumbria replied:

"Basically, we have embedded Immigration Enforcement Officers (part of the home Office) working within the Force and they become aware of the status of victims due to our work with them."

At the Metropolitan police, Laura Carpenter, Senior Press Officer, the Directorate of Media and Communication of the MPS mentioned that it assesses on a case by case basis but would consider arresting victims who are irregular as illustrated in their response:

“The sharing of information by the MPS with the Home Office is assessed on a case by case basis and will only occur where police have a genuine concern that an individual is in the country illegally. When and how we arrest someone is dependent on a number of factors, including their vulnerability and the risk to the public, this assessment would be carried out on a case by case basis. Our primary focus is always the needs of the victim and or witness above other considerations. When someone reports a crime, our role as police officers is to investigate that matter and bring any offenders to justice”

6. GOOD PRACTICES FROM OTHER FORCES AND COUNTRIES IN THE EU

ALAN ANSTED, UKREN; FIZZA QURESHI, MRN; ILLARY VALENZUELA, LAWRS

Amsterdam, The Netherlands:

Amsterdam has adopted a program called “Everyone’s Police”, which encourages the reporting of crimes in the interest of more effective policing and community engagement. To reach undocumented residents, the police organises monthly information sessions.
In 2016, a safe reporting policy based on the Amsterdam model was rolled out nationwide in the Netherlands to encourage people who are undocumented to approach the authorities to report crimes and to promote trust.

Formally espoused in the official explanatory note accompanying amendments to the criminal law adopted by the Netherlands. The explanatory note underlines that, in the Netherlands, **victims’ rights apply to all victims, regardless of their residence status**. Undocumented migrants therefore have the right to file a complaint and participate in criminal proceedings, as well as to access support services, including Victim Support Netherlands, the Centres for Sexual Violence, and medical assistance.

[This is a positive development, although it is unfortunate that safe reporting and assurances about access to justice for undocumented migrants appear only in the explanatory note and not in the law itself.]

**Antwerp, Belgium:**

The Police Commissioner in Antwerp, Belgium, spoke at an UKREN event about how he had helped achieve a significant increase in the number of people reporting hate incidents in his force’s area, by first looking at police procedures, that the right questions are asked by police (they have these on a tablet device they carry). Second, by training all police officers in how to recognise, support victims and record hate incidents (he took personal responsibility for the training). Third, outreach work by police officers in the communities most likely to be targeted by hate.

The Police Commissioner in Haaltert, Belgium, said at an OSCE meeting that he invites communities in his local area to come as a group to the police station to talk about hate crime. He never asks them their names or nationalities (which he said surprises them) and sets up a relaxed atmosphere to talk, on purpose as he wants to create a feeling that it is safe to report any incident of crime to the police. He has studied safe reporting practices across Europe, and sees it as a big problem in Germany, Cyprus, Greece, Lithuania and UK.

**Northern Ireland:**

The Migrants Centre in Northern Ireland have ‘Community Advocates’ who help victims of race hate crime report to the police. They act as more than mediators as trained not just in victim support and hate crime law but also immigration, housing, social benefits advice. These Community Advocates have the support of senior Police Service Northern Ireland officers and bridge the gap between migrant communities and PSNI. In their first year of operation they saw hate crime reporting double in NI. This concept was used in London as part of a six month Home Office funded project that worked with Roma Support Group, Eastern European Resource Centre, UKREN and the Met Police. One of the outputs from this project is the eBook ‘Guide to helping victims of hate crime’, available on UKREN’s website.