**Migrant women, refugee women and asylum seeking women in the UK - CEDAW Article 9**

Summary

Migrant women, refugee women and asylum seeking women are amongst the most vulnerable groups in the UK. They are subjected to multiple discrimination on the grounds of their gender, race and migration status.

The Beijing Platform for Action recognises that “*Some groups of women, such as…refugee women, women migrants, including women migrant workers.... destitute women, women in institutions.... are particularly vulnerable to violence*”.[[1]](#footnote-1) Migrant, refugee and asylum seeking women face additional barriers to accessing services. They find it harder to access health services, are more vulnerable to violence against women and girls (VAWG) and lack access to social services and legal protection. This enhances their vulnerability and raises human rights concerns.

There is a gap in the Government’s Seventh Periodic report[[2]](#footnote-2) under Article 9 as it only refers to asylum issues and women with ‘no recourse to public funds’, not making reference to all the other migration and nationality issues that affect hundreds of thousands of vulnerable women in the UK, including women migrant workers, undocumented women, foreign national prisoners or other groups of migrant women.[[3]](#footnote-3)

Asylum specific issues:

One third of people applying for asylum in the UK each year are women.[[4]](#footnote-4) This proportion has remained constant since 2003. In 2010, 5,329 women claimed asylum in their own right and 12,571 men.[[5]](#footnote-5) Despite what the Government has highlighted in the Seventh Periodic Report evidence shows that gender issues are not fully considered in the asylum system. In particular, many women are refused asylum because their accounts of gender-based violence and sexual abuse are not believed, despite the volume of evidence that it is precisely these kinds of persecution which applicants find hard to reveal.[[6]](#footnote-6) There are also issues with the current system which is unsuitable for complex gender-based claims.[[7]](#footnote-7) More must be done to eliminate discrimination against immigrant and refugee women, both in society at large and within their communities, as current measures taken are not effective and women who have fled to the UK in need of protection are too often caught in a system that compounds their trauma.[[8]](#footnote-8)

We welcome the statement made by the CEDAW committee on the 60th anniversary of the Refugee Convention calling on all State parties to CEDAW to ensure that their laws, policies and practices do not discriminate against refugee women and girls.[[9]](#footnote-9) However, the UK Government has failed to address this effectively and the UK report omits 2008 recommendation 48 a).

**Recommendation:**

**UK Government must apply the United Nations High Commission for Refugees Gender Guidelines (2002) on International Protection with regards to Gender-Related Persecution.**

Other migration issues:

There is a widening gap between the aims of the government’s Call to End Violence against Women and Girls and the effect on migrant women, whether lawful or unlawful migrants from inside or outside the EEA, of increasingly restrictive immigration rules, cuts in legal aid, and wider cuts in support services. In particular, the recent changes in the Immigration Rules on family migration, which purport to ‘define’ how Article 8 ECHR and the UN Convention on the Rights of the Child duties will be applied, will make it significantly harder for women to enter the country lawfully, or, once here, to escape violent and exploitative situations. The withdrawal of legal aid from immigration will also make it harder for women to challenge negative decisions. In addition, further restrictions on legal avenues for migration into the UK, and the tightening of border controls by such means as biometric documentation, are having dramatic results for the most vulnerable women. More women are likely to enter the country in an irregular way and there are fewer channels for women to migrate independently, therefore they are placed in a position of dependency and are vulnerable to violence and sexual abuse.[[10]](#footnote-10)

Health

Migrant, refugee and asylum seeking women face barriers to access health services and experience poor health outcomes. Women asylum seekers and refugees face significant barriers to good wellbeing. There is evidence of poor antenatal care and pregnancy outcomes (asylum seeker and refugee women make up only 0.03% of the population but 12% of all maternal deaths[[11]](#footnote-11)) and low uptake of preventative healthcare measures concerning breast and cervical cancer.[[12]](#footnote-12) In 2011, the majority of pregnant women who attended the [Project:London](http://www.doctorsoftheworld.org.uk/projectlondon/default.Asp)’s clinic in East London, established by [Doctors of the World UK](http://www.doctorsoftheworld.org.uk/default.asp) for migrants, the homeless, and female sex workers, were already in the second trimester of their pregnancy or beyond, without so far accessing antenatal care.[[13]](#footnote-13)

Maternal mortality among black African women in the UK is up to seven times higher than it is among white women.[[14]](#footnote-14) Research has shown that compared to white women born in the UK, Black and Minority Ethnic (BME) women born outside the UK booked for antenatal care later, had poorer information provision and were less likely to be treated with respect by staff[[15]](#footnote-15). Refugee and migrant women also have very high rates of mental illness[[16]](#footnote-16)

General health needs of groups of migrant women such as older women, lesbians, or women with disabilities, and of a wider range of prevention and treatment issues including sexual health and family planning and mental health, have been largely neglected.[[17]](#footnote-17) These women can be vulnerable to high levels of depression and anxiety as a result of experiences of trauma, violence, lost social support, discrimination and racist abuse and harassment in the UK. Women face significant barriers to healthcare as a result of a lack of accessible information, language barriers, a lack of clarity of entitlement to services, low incomes and vulnerability to domestic violence and abuse.[[18]](#footnote-18)

Barriers to access care for irregular migrants and those with uncertain immigration status (including visa [overstayers](http://migrationobservatory.ox.ac.uk/glossary/term/82), refused asylum seekers, victims of trafficking and women on dependant visas escaping domestic violence) are common. According to current rules governing access to health care these categories are not entitled to some services, for instance free hospital care, except for emergency care or treatment for HIV. Such restrictions on access mean that there is currently a stratification of rights to health care in the UK.[[19]](#footnote-19)

In particular, failed asylum-seekers are not entitled to access any but the most basic emergency and maternity health services. ‘Immediate’ and ‘urgent’ treatment should be provided without delay but the patient will be issued a bill.[[20]](#footnote-20) There is also a common tendency for GP practices to refuse to register patients who are recent migrants whatever their immigration status and those with insecure accommodation face additional barriers.[[21]](#footnote-21) Limiting legal access to care on grounds of immigration status disproportionately impacts upon women. Antenatal care and maternity services are chargeable and frontline administrators often demand proof of ability to pay bills before allowing access to care. Financial barriers, in addition to fear of the authorities, mean that many destitute migrant women are not seeking healthcare at all.[[22]](#footnote-22)

The antenatal and prenatal care for undocumented women or those with ‘no recourse to public funds’ is also extremely substandard. In some parts of the UK, volunteer Doulas have taken on the burden of supporting asylum seeking and undocumented women through the birth process, however in ensuring more holistic support for women, they face significant resistance from state agencies.[[23]](#footnote-23) Many frontline administrators and public service providers presume that asylum seeking or undocumented women are giving birth in the UK to improve their chances of receiving leave to remain in the country. This discrimination results in unfavourable and sometimes hostile treatment of migrant women who are pregnant.[[24]](#footnote-24)

**Recommendation:**

* **All asylum seekers, including those whose claims have been refused, and undocumented migrants should have access to free NHS healthcare on the basis of need across the UK until they are given permission to stay in the UK or return to their country of origin. As a matter of urgency, asylum seeking women, including women whose claims have been refused and pregnant undocumented should be exempt from charges for NHS maternity treatment.**

Violence against women and girls (VAWG) in the context of nationality

Between one half and three quarters of women asylum seekers have experienced VAWG either in their country of origin, during transit to the UK, or once in the UK.[[25]](#footnote-25) However, the Government’s VAWG strategy only contains one paragraph on women seeking asylum and another on women with ‘no recourse to public funds’,[[26]](#footnote-26) the VAWG strategy is not clearly placed within the UKBA’s strategic plan, and the UKBA Gender Champion does not have any obvious responsibility for the sections in the VAWG strategy related to asylum or migration.

It is widely accepted that many refugee and asylum seeking women who have been subject to rape and abuse find it hard to talk about their experiences, especially at the Asylum Screening Unit. Despite the sound advice in the UKBA’s own Gender Guidelines, ‘late revelation’ of abuse often leads to refusal of an asylum claim on the grounds of poor credibility. Despite the recommendations in the Gender Guidelines, UKBA decision-makers often do not have access to, or do not refer to, information on the position of women in the applicant’s country of origin, and so issues concerning forced marriage, so called 'honour' killings, domestic violence and marital rape are not understood, or acknowledged to be relevant, especially to lesbian and bisexual women.[[27]](#footnote-27)

Migrant women in the UK who are experiencing violence have an intensified experience of it because their immigration status often prevents them from accessing life-saving services.[[28]](#footnote-28) Additionally women survivors of domestic violence and who have an insecure immigration status also face many barriers to resolving their immigration status and accessing financial and other support.[[29]](#footnote-29)

Migrant women have been identified as a high risk group for being forced into sex work, and information from law enforcement agencies in the UK suggests that migrant women and trafficked women make up a high proportion of sexually exploited women in the UK. According to research only 19% of women working as prostitutes in flats, parlours and saunas were originally from the UK.[[30]](#footnote-30)

**Recommendation:**

* **The Government’s VAWG should properly address the situation of migrant, refugee and asylum seeking women in the UK as one of the groups more vulnerable to VAWG. Appropriate measures need to be taken to protect these women from violence and abuse including an action plan and adequate weighting and relevance within the strategy as a whole.**
* **UKBA must address the specific impacts of destitution on women, and take action to prevent it. Priority should be given to developing appropriate safeguards to ensure that asylum seeking women are not forced into living arrangements that make them more vulnerable to sexual violence and exploitation. Nobody should be made destitute as a result of government policy.**

**Victims of domestic violence and ‘No recourse to public funds’ policy**

Vulnerable migrant women may find it more difficult to leave situations of violence and abuse than settled women because of problems of language, social isolation, patriarchal cultural expectations, fear of repercussions from family members and the wider community, inappropriate responses and/or racism from mainstream agencies, and the impact of the ‘no recourse to public funds’ rule. Women who are in the UK on a spouse or partner visa may fear that they cannot leave a violent relationship without jeopardizing their leave to remain here during the two year ‘probationary’ period (now extended to 5 years. See below).

A combination of immigration laws[[31]](#footnote-31) act to deny women with insecure immigration status access to public funds and other social services,[[32]](#footnote-32) even if they have experienced domestic violence (DV). After extensive lobbying by the Campaign to Abolish No Recourse to Public Funds[[33]](#footnote-33) and a recommendation from the CEDAW Committee in 2008, the Government introduced a pilot project in 2009 to support women on spousal visas in this position and committed to providing a long term solution.[[34]](#footnote-34)

In April 2012, the government launched the Destitution Domestic Violence (DDV) Concession, which allows women whose last visa was a spouse/civil partner/ unmarried partner access to public funds if they are destitute, have experienced violence and are planning to apply for Indefinite Leave to Remain (ILR) in the UK under the DV Rule.[[35]](#footnote-35) Although the women’s sector has welcomed this permanent concession, they continue to campaign to extend the scheme to the many women currently excluded, including those on other types of visa, EEA citizens and non-EEA family members of EEA citizens, overstayers, overseas domestic workers and trafficked women not accepted into the National Referral Mechanism.[[36]](#footnote-36)

It is also important to note the differential treatment by different local authority Social Services Departments of destitute women with children, whether failed asylum-seekers, overstayers or otherwise with ‘no recourse to public funds’, who are fleeing DV but not eligible for the DDV concession. The UN Convention on the Rights of the Child and the UK Children Act 1989 require local authority social services departments to consider the ‘best interests of the child’ and give the local authority power to provide accommodation and financial support not just to the children themselves but to their parents, even where the parent is an overstayer or otherwise not entitled to public funds. But this is not widely understood, and destitute women with children often need to take legal proceedings to obtain accommodation and support.

**Recommendation:**

* **Extend the DDV Concession to all women who are subjected to domestic violence or abuse and immigration control so that they are exempt from the restriction on access to public funds and health and social care services.**

New family migration Immigration Rules from 9 July 2012

Other changes in rules and policy will have a negative impact on women with ‘no recourse to public funds’ and undermine the benefits of the DDV Concession even to those who qualify for it. New Rules from July 2012, have introduced new family migration requirements which, especially in relation to income, will generally be far harder for women to meet than men considering women’s reduced incomes and the feminisation of poverty. [The new rules disproportionately affect British women](http://www.independent.co.uk/news/uk/home-news/new-immigration-rules-accused-of-splitting-up-families-8324254.html), whose wages are on average lower than men's, making them less able to marry someone from outside the EU. In addition[[37]](#footnote-37) foreign-based spousal income isn't counted.

The increase in the ‘probationary period’ before which partners on partner visas must wait before applying for ILR has been increased from 2 years to 5 years, materially increasing the time during which many women will be prey to partners who use their insecure immigration status as a weapon of control. From April 2013 legal aid will be withdrawn for immigration cases[[38]](#footnote-38) making it harder for these women to obtain advice.[[39]](#footnote-39)

**Recommendations:**

* **Reform the Domestic Violence Rule so that all types of evidence of domestic violence are accepted and provide adequate levels of legal aid so that there is access to good quality legal advice and assistance.**
* **The Government should properly assess the implications of the New Family Migration rules and how they disproportionately affect women and review these rules on the grounds of their discriminatory impact on various grounds.**

**Support and accommodation**

Vulnerable migrant women have high rates of destitution and poverty. .Migrant and refugee women routinely lack access to social services and legal protection and are subjected to abuses such as harsh working and living conditions, low wages, illegal withholding of wages and premature termination of employment. The worst abuses force women into sexual slavery. [[40]](#footnote-40)

The situation in a time of financial crisis is worse for migrant women. Currently in the UK, the recession is causing a heightened sense of job insecurity for millions of migrant and ethnic minority women, and making migrants more vulnerable to abuse. Migrant women are increasingly providing the infrastructure that enables higher numbers of native-born women to enter paid employment. However, the unregulated, insecure, and privatised nature of many migrant women’s work – as cleaners, housekeepers, hotel and tourism staff – leaves migrant women open to abuse and exploitation. [[41]](#footnote-41)

From March 2011 the Home Office cut advice for newly arrived asylum seekers by more than 60%. This advice covers applying for asylum, support and housing and also helps people suffering from harassment or domestic violence.[[42]](#footnote-42) There is also limited state support for safe housing and many groups of migrant women do not qualify for housing support or funded shelter places.

Asylum seeking women, women with ‘no recourse to public funds’ and other vulnerable groups of migrants such as undocumented migrant women face serious barriers to accessing adequate housing. Often dependent on the informal housing market, they occupy poor quality and overcrowded housing, and are often charged disproportionate rents. Emergency housing projects are only short term and it is extremely difficult for those unable to apply for a DDV to access women’s shelters as the state refuses to reimburse them. Only 8.5% of NRPF women requesting a refuge place in London obtain one[[43]](#footnote-43). Fearing contact with the police and without a safety net, unscrupulous landlords can often abuse these women with impunity.[[44]](#footnote-44) For example, 11% of Latin Americans work for less than the minimum wage and face high levels of labour exploitation. Almost half of Latin Americans live in inadequate housing with almost one third sharing their house with other family indicating overcrowding. [[45]](#footnote-45)

Local authorities have an obligation to provide support (including accommodation) to avoid a breach of human rights.[[46]](#footnote-46) Most of the families who receive such support are those who have overstayed their visa and are waiting for a decision from the UKBA on an application for ILR on human rights grounds, or women with children fleeing violence who are waiting for a decision from the UKBA on an application for ILR under the DV Rule.[[47]](#footnote-47) There is a shortage of emergency accommodation and the shelters or hotels offered are usually inappropriate housing for children. Local authorities do not receive any central government funding for providing support and accommodation to these families. Therefore, areas with a high number of undocumented migrants, which tend to be poorer in any case, struggle to reallocate the necessary funds, and may not be able to meet their responsibilities in all cases. In practice, this means turning away families despite urgent need jeopardising their human rights. There is a high level of discretion and divergence in practice in whether support is provided.[[48]](#footnote-48) Further, if there is no pending application to regularise the person’s stay, the local authority has the duty to inform the Home Office, so although temporary shelter can be provided to avoid a breach of human rights, it usually results in the speeding up of immigration removal processes (detention and deportation).[[49]](#footnote-49) Therefore, for families without an application in process, applying for local authority assistance is a last resort.

Section 20 of the Children Act 1989 requires local authorities to “*provide accommodation for any child in need within their area*”, but this only explicitly imposes the duty to house the child.[[50]](#footnote-50) So, the local authority’s duty is usually interpreted as an obligation to house the child, but not the family, and there have been cases where the child is separated from their family and put under the care of the local authorities. This is a breach of the right to family life and often contradicts the best interests of the child (there is sufficient case law establishing this[[51]](#footnote-51)). However, when families do not have legal representation or know their rights, they are sometimes threatened with separation nonetheless since it is easier to accommodate separated children than whole families.[[52]](#footnote-52)

Despite clear, detailed and adequate policies to protect those facing violence who are in asylum support accommodation[[53]](#footnote-53), these policies are not widely known or always implemented and anti-bullying strategies are not be being enforced in removal centres. In particular, some women are forced to leave accommodation provided by the UKBA because of bullying or homophobia from other tenants, neighbours and the failure of landlords to tackle this. This is then treated as 'voluntary abandonment' and they are denied access to further accommodation services.[[54]](#footnote-54)

Asylum specific issues

The Charter of Rights of Women Seeking Asylum[[55]](#footnote-55) has been endorsed by over 300 organisations from the refugee, women’s and human rights sectors and from trade unions and faith groups in the UK. Since 2008, the Charter campaign has been lobbying the United Kingdom Border Agency (UKBA) to make the asylum system gender-sensitive.

In February 2012 the UKBA withdrew para 395c of the Immigration Rules and replaced it with a new para 353B. This subtle change, along with the removal of legal aid, is likely to lead to increased numbers of overstaying women and failed asylum-seeker women with good Article 8 ECHR cases, or with EU or British children, or both, having their cases wrongly decided, and facing removal.

**Recommendations:**

* + - * **The UKBA must mainstream gender issues so that they are considered strategically in all aspects of the asylum process, for example by linking work on the Equality Act 2010 and CEDAW, and by providing sufficient resources for the Gender Champion and stakeholder engagement on gender issues to ensure that this is effective and long-term. This should also include reviewing timescales in the asylum process to ensure that they are sufficiently flexible for women survivors of rape and sexual violence to be able to fully disclose their experiences in support of their asylum claims.**
* **UKBA should cease routing women into detained fast track whilst the risk remains so high that a woman who has experienced sexual violence will have her claim inappropriately dealt with.**

Childcare during the asylum process

Childcare provision is referred to in the UK report (para 116) but is not referred to in asylum seekers’ invitation to interview letter, despite the UKBA being notified of this omission in June 2011.[[56]](#footnote-56) Provision varies across the different regions of UKBA and in some areas there is evidence of no provision.

Case study: (from Denise McDowell, Director, Greater Manchester Immigration Aid Unit)

“*There is no childcare provision in the North West. UKBA announced last year [2011] that they had but when we investigated (because we hadn't seen any evidence of it) we were told that it was the new family room in Liverpool where there's an interview room with a glass partition and on the other side of the partition is a television showing cartoons that children can watch. That’s it - not childcare as we know it!”*

Lesbian and bisexual women in the asylum system

Despite the introduction of the ‘Sexual orientation and gender identity in the asylum claim’ policy instruction in 2010 there is evidence that this guidance is not being followed. Lesbian and bisexual (LB) asylum seekers face repression and institutional discrimination in the UK and are often marginalised within the asylum system. Although there has been some success in achieving recognition that homophobia and fear of persecution based on sexual orientation are legitimate grounds for asylum, the situation for LB asylum seekers is uncertain.[[57]](#footnote-57) UKBA staff do not receive any specific training or guidance on interviewing applicants or approaching claims where sexuality is a key element and many judges continue to have biased views towards LGBT people.[[58]](#footnote-58)

Section 4 support

Some women who have been refused asylum are able to access limited short-term ‘Section 4’ support. This consists of accommodation and an Azure payment card that can be used in a small number of specified shops to buy food and essential toiletries up to the value of £35.39 per week.[[59]](#footnote-59) Accommodation is offered on a no choice basis and could be in any city or region. However, in order to be eligible, applicants must prove that they are destitute or about to become destitute, as well as showing that they meet one of the following criteria: they are taking all reasonable steps to leave the UK; they are unable to travel because of a physical impediment or medical reason or because the government decides there is no viable route of return; they have applied for judicial review of their asylum claim decision and have permission to proceed; or the provision of accommodation is necessary to avoid breaching their human rights.[[60]](#footnote-60) Many women find it impossible to meet these criteria; the requirement to sign a voluntary return form in order to access support is one that they are too frightened to comply with, and judicial review and human rights arguments remain out of the reach of many, given the limited legal advice and representation available to asylum seekers. Furthermore, the application process for Section 4 support is often delayed, leading to destitution for those awaiting a decision.[[61]](#footnote-61)

Women who do receive Section 4 support are not entitled to the maternity payment and extra weekly milk tokens that those on ‘Section 95’ support receive and their vouchers cannot be used to purchase necessities for babies, such as clothing or nappies. Life on Section 4 support therefore does not ensure a dignified standard of living for women and their children. In addition, UKBA policy is that only women in the late stages of pregnancy (generally six weeks before the expected due date), or those with a baby under six weeks old are unable to travel. This means that pregnant women, especially those on Section 4, may be dispersed to another city or region at a stage in their pregnancy where they should not be travelling and their special dietary requirements are probably not being met in the full board initial accommodation provided by Section 4.[[62]](#footnote-62)

**Recommendations**

* **The Section 4 system should be revised so that all destitute refused asylum seekers, especially pregnant women, should be offered support, without the requirement for voluntary return.**
* **The use of the Azure card, which does not offer an adequate level of dignity to refused asylum seeking women, especially those who are pregnant or nursing, should be replaced with a cash allowance.**
* **Accommodation provided under Section 4 support should be gender sensitive; safe for women, suitable for pregnancy related needs, and close to women’s existing community support networks.**

Women on Section 4 support are not entitled to the maternity payment and extra weekly milk tokens that those on ‘Section 95’ support receive and their vouchers cannot be used to purchase necessities for babies, such as clothing or nappies. Pregnant women, especially those on Section 4, may be dispersed at a stage in their pregnancy where they should not be travelling and their special dietary requirements are probably not being met in the full board initial accommodation.[[63]](#footnote-63)

**Implementation of the Gender Guidelines**

There continue to be no gender guidelines in the asylum appeals system. In relation to initial decision-making, the UKBA’s own gender audit has shown that the UKBA’s comprehensive Asylum Gender Guidelines are still not being implemented. The Practice Direction: Child, vulnerable adult and sensitive witnesses[[64]](#footnote-64)extended to the Immigration and Appeals Chamber in October 2010 also fails to take into account the nature of the claim for asylum.[[65]](#footnote-65)

The UK report fails to mention key areas of progress even though this information was available at the time the report was drafted. [[66]](#footnote-66) For example, the appointment of a Gender Champion to take the strategic lead on gender issues at the UKBA.[[67]](#footnote-67) These omissions demonstrate a lack of a strategic approach by the UKBA and the lack of gender-sensitivity in the asylum system at a systemic level as well as the lack of follow-up with operational issues, also show the failure of the UKBA to mainstream gender issues at all stages of the asylum system. For example:

1. The UKBA fails to interpret the Refugee Convention in a gender-sensitive way or to implement its own gender guidelines.[[68]](#footnote-68)
2. Complex gender cases including women who have been trafficked continue to be inappropriately referred to the detained fast track (DFT) process[[69]](#footnote-69) despite it being unsuitable for complex cases such as gender-related claims.[[70]](#footnote-70)
3. In some asylum and immigration cases the UKBA is separating children from their parents by holding parents in detention despite this conflicting with the UKBA’s duty to safeguard and promote children’s welfare.[[71]](#footnote-71)
4. UKBA fails to apply a gender-sensitive approach to the provision of material reception conditions, particularly in relation to support decision-making,[[72]](#footnote-72) dispersal, support levels or accommodation standards.[[73]](#footnote-73)

**Recommendation:**

**Ensure that Immigration Judges have appropriate guidance, using the Asylum Gender Guidelines, for making decisions on women’s asylum cases including those involving gender-based persecution.**

Women migrant workers

Migration bears great risks for women, many of whom end up at the lower end of the job market. Female migrants often work as domestic workers, sex workers or in unregulated informal sectors that do not fall under national labour laws. Migrant women routinely lack access to social services and legal protection and are subjected to abuses such as harsh working and living conditions, low wages, illegal withholding of wages and premature termination of employment. The worst abuses force women into sexual slavery.[[74]](#footnote-74)

For instance, Latin American migrant women workers in the UK are employed in low skilled jobs, mainly in the cleaning industry, 11% of Latin American workers earn below the national minimum wage and 40% experience abuse and discrimination at work. They also experience a high level of exclusion from public health services with 1 in 5 not registered with GPs.[[75]](#footnote-75)

Research strongly suggests that vulnerability, particularly to trafficking and exploitation, results from migrant’s socio-economic conditions, lack of information about their rights and entitlement to protection in the UK, their personal family and emotional circumstances, attitudes towards the police, the availability of personal and professional networks, but, most of all, from their immigration legal status.[[76]](#footnote-76)

As outlined in CEDAW General Recommendation 26 where migrant women are undertaking temporary work on farms or in factories, living conditions may be poor and overcrowded, there may be violations of employment rights, and vulnerability to sexual abuse, and this has been documented in the UK.[[77]](#footnote-77) Despite this the Government has determined to effect a significant reduction in the regulation of temporary workers. The proposals aim to enable the Gangmasters Licensing Authority to concentrate on high-risk, criminal labour providers. However, by removing the process of inspection on first licence, by the lengthening of the period between inspections, and by the removal altogether of some sectors employing temporary workers, including specialist cleaning contractors (which have been highlighted as employing illegal migrant women), the Government is increasing the risks to migrant women in those sectors.

In the cleaning sector women workers are in a majority. Cleaning is undertaken out of office hours, out of sight and is managed by external agencies rather than direct employers. This leads to increased isolation, making workers highly dependent on their supervisors who control access to work and determine the type of work done and high levels of abuse and exploitation. [[78]](#footnote-78)For instance, 62% of Latin American migrant women are employed in elementary occupations, most of them experiencing a dramatic fall of their occupational status in the UK. The most severe forms of discrimination at work are found in cleaning, catering and hospitality with undocumented migrant women experience much higher levels of harassment and abuse at the workplace.[[79]](#footnote-79)

Migrant domestic workers

CEDAW General Recommendation 26[[80]](#footnote-80) highlights the fact that domestic workers in private households are often subjected to poor working conditions and even abuse from the employing families, and experience their employment as a form of bonded labour. Years of campaigning in the UK led some years ago to improvements in their rights, namely to be able to obtain permission to change employer, and to eventually apply for settlement. However in April 2012, the Immigration Rules were amended to remove these rights for domestic workers. In response to criticism, the Home Secretary proposed that at the visa application stage, visa officers would ensure that applicants knew and understood the terms of their employment contract. However this clearly provides no solution once the migrant worker is in the UK and experiencing the exploitative conditions.

Our concern is about tying domestic workers to one employer because this:

(a) removes any bargaining power they have and increases the level of control employers can exert, making domestic workers far more vulnerable to abuse

(b) makes them far less able to pursue justice after fleeing

(c) has already led to domestic workers going underground with all the associated vulnerabilities as they are so desperate to continue working to support their families.

In a similar way to women who do not satisfy the requirements for the Domestic Violence Rule, even if the only eventual immigration option is for the migrant worker to return home, she may well have no money, or any documents, and will need access to social assistance of some kind and access to some kind of temporary status akin to the DDV concession, to extricate herself safely from the exploitative situation.

**Recommendations:**

* **The Government should monitor the situation of women migrant workers and ensure that they receive adequate protection**
* **The Government should ensure that domestic workers can change employer and obtain permanent settlement after 5 years in the UK (as it was the case before)**
* **The Government should not reduce the regulations of temporary workers but actually ensure that critical sectors such as the catering, cleaning and food processing industries are covered by the regulations**

**Question:**

* **How does the UK reconcile its recent immigration changes – namely the tying of domestic worker visas to one employer - with the CEDAW Committee recommendation in general recommendation No. 26 and the 2008 concluding observations about migrant women?**

Undocumented women

GR 26 discusses the host country’s responsibilities to undocumented migrant women, stating that “*regardless of the lack of immigration status… States parties have a duty to protect their basic human rights, including humane treatment and access to legal remedies*”.Women are disproportionately subjected to abuse and sexual exploitation on their journey to the UK and many organisations have reported systematic abuse against women migrating through irregular channels by immigration guards, smugglers, and other migrants.[[81]](#footnote-81) This abuse is itself traumatising, and should form part of the woman’s case for consideration once she is here. However, the experience of such women once arriving in the UK is often to be disbelieved, and they are subjected to detention and inappropriate fast track procedures to determine her claim.[[82]](#footnote-82)

There are also examples of extra-territorial border controls failing women’s protection needs:

Case study:[[83]](#footnote-83)

In 2009, the situation facing undocumented migrants gathering in Calais compelled the British Refugee Council and France Terre d’Asile to conduct a joint fact-finding mission to assess their conditions and access to protections.[[84]](#footnote-84) They identified the notable lack of female interpreters in the area around Calais where makeshift camps had been constructed, and the migrant women they interviewed were unable to obtain any sanitary products, violence counselling, or antenatal care. The risk of sexual violence against the women was also of grave concern.

Gender vulnerabilities increase the likelihood of migrant women to become undocumented, a status under which they are greatly exposed to systematic violence, abuse and discrimination. The majority of undocumented women arrive to Europe with a regular, but often highly dependent migration status and become undocumented for reasons outside of their own control.[[85]](#footnote-85) The biggest barrier facing undocumented women in the UK is the refusal of the state to prioritize them as victims of violence rather than as immigration offenders. Their status is always at the forefront of their experiences. The structures exist in a way that reinforces the abuse of women, leaving women at risk of further violence and destitution.”[[86]](#footnote-86)

Undocumented women are also unlikely to report being victims of violence or other crimes. For women who are irregular and often are unable to speak English, seeking assistance from the police or other public agencies is not an option due to fear and lack of information. Not all women are aware of their rights or are willing to report crimes.[[87]](#footnote-87) They are scared of being deported or losing their children.

Undocumented women can also experience violence and discrimination in the workplace. Working in low-wage sectors where violations are more likely to occur, their gender, foreign status, fears about immigration control and isolation can make them more exposed to violence and abuse by employers or supervisors. However, very few women are willing to lodge a complaint against an employer because they fear losing their jobs and being arrested or deported.[[88]](#footnote-88)

Case Study:[[89]](#footnote-89)

Maria from Bolivia arrived to the UK with a tourism visa that she overstayed trying to find economic security and a way to send money to her children back in Bolivia where the family was very poor. She rented a room, sharing a house with the landlord. She was raped and when she attempted to denounce the crime, the landlord warm her against it saying that if she reported him, she was going to be deported. Maria stayed silent and changed accommodation.

**Recommendations:**

* **The Government through its immigration enforcement procedures must never undermine human dignity and human rights, or put women at an increased risk of violence and abuse. Service providers should not be required to share personal data with immigration enforcement agents or to turn away women in need because they lack a residence permit**
* **Prevention, protection, investigation and sanctioning of violence against women should take precedence over any proceedings concerning the immigration status of the victim. The Government must take steps to protect victims when they report violence and also, facilitate the prosecution of perpetrators regardless of the status of their victim.**

Foreign national prisoners

The Government’s treatment of foreign national prisoners has no gender component at all. Yet unlawful denial of Home Detention Curfew may unlawfully keep women prisoners in prison, enforcing continued separation from their children.[[90]](#footnote-90) Because of the loss of legal aid, many women foreign national prisoners will fail in challenging deportation (automatic or conducive) on meritorious Article 8 ECHR and/or best interests of the child grounds. For the same reason, the potentially meritorious cases of many male foreign national prisoners may fail, which will have an impact on their partners left looking after their children in the UK without them.[[91]](#footnote-91)

A high percentage of foreign female prisoners include women charged with offences such as deception and fraud in relation to their immigration status and related offences of use of false documentation to access work or benefits, or pass through customs on entry or exit from the UK. Many of these women are victims of trafficking.[[92]](#footnote-92)

Research on immigration case management of female foreign prisoner victims of trafficking indicates that they are viewed as illegal migrants, rather than victims of abuse by those who had brought them into the UK or by those who were working them in servitude like conditions, and, as with all female asylum seekers in custody, they are disadvantaged in terms of the failure to receive advice by the legal representative on their criminal matters on the potential impact of their plea and resultant sentence on their immigration outcome, they face problems in accessing legal representation in custody for their immigration matters and they often have full immigration interviews in custody without advance warning.[[93]](#footnote-93)

**International development**

The work being undertaken by the UK in relation to VAWG at an international level is emphasised in its VAWG strategy and in its seventh periodic report to the CEDAW Committee. Yet successive governments have failed to make the link between the UK’s commitments to dealing with VAWG in the context of international development and any concerns for the women who arrive here fleeing VAWG. Thus whilst the UK government works through the Department for International Development to tackle VAWG overseas, the UKBA may refuse to protect women in the same situation who reach the UK despite their having been affected by VAWG and having been denied state protection in their country of origin.

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*(a) Women migrant workers who migrate independently;*

*(b) Women migrant workers who join their spouses or other members of their families who are also workers;*

*(c) Undocumented women migrant workers who may fall into any of the above categories.*

*The Committee, however, emphasizes that all categories of women migrants fall within the scope of the obligations of States parties to the Convention and must be protected against all forms of discrimination by the Convention.”* [↑](#footnote-ref-80)
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