



## **Nationality and Borders Bill 2021: House of Commons Committee Stage Women for Refugee Women briefing on Clauses 10, 16, 17 & 23**

### ***Background***

Women for Refugee Women (WRW) works with women seeking asylum in the UK, to challenge the injustices of the UK's asylum system. Together with our partners across England and Wales, we support hundreds of women who have fled sexual and gender-based violence, including rape, female genital mutilation and forced prostitution.

WRW's research has documented how many women seeking asylum in the UK **have fled gender-based violence in their countries of origin**. Our 2020 report *Will I Ever Be Safe?*, which interviewed 106 asylum-seeking and refugee women forced into destitution in the UK, found that **78% of these women had experienced gender-based violence in their countries of origin**.<sup>1</sup> Many of these women are abused again on their journeys to safety; *Will I Ever Be Safe?* found that **45% of the women interviewed had experienced rape, sexual violence, torture, physical violence and/or imprisonment during their journey to the UK**.

At WRW we are extremely concerned about the impact that the Nationality and Borders Bill will have on these vulnerable women. This briefing focuses on the impact of Clauses 10, 16, 17 & 23 of the Bill. These clauses, if enacted, are likely to punish women who have survived gender-based violence and are unable, through no fault of their own, to disclose their experiences right away.

**Women already face significant barriers to the full investigation and recognition of their protection claims.<sup>2</sup> The clauses on late evidence will only worsen those**

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<sup>1</sup> Women for Refugee Women (2020) *Will I Ever Be Safe?*; <https://www.refugeewomen.co.uk/wp-content/uploads/2020/02/WRW-Will-I-ever-be-safe-web.pdf>

<sup>2</sup> See, for example, Women for Refugee Women (2012) *Refused*; Asylum Aid (2011) *Unsustainable: The Quality of Initial Decision-Making in Women's Asylum Claims*, <https://consonant.org.uk/wp-content/uploads/2019/05/UnsustainableWEB.pdf>; European Parliament, Directorate-General for Internal Policies (2012) *Gender Related Asylum Claims in Europe*, [http://www.europarl.europa.eu/RegData/etudes/etudes/join/2012/462481/IPOL-FEMM\\_ET%282012%29462481\\_EN.pdf](http://www.europarl.europa.eu/RegData/etudes/etudes/join/2012/462481/IPOL-FEMM_ET%282012%29462481_EN.pdf)

**obstacles.** A legal opinion on the Bill from Garden Court Chambers supports this, stating that '[t]he combined effect of these clauses is to make it harder for refugees in the UK to access international protection...[T]here are many good reasons why refugees – particularly women and girls – may claim asylum 'late' or provide evidence in support of their claim at a later stage in the asylum process. That does not detract from the veracity of their claim, or their need for asylum.'

**We therefore strongly encourage members of the Public Bill Committee to disagree to a motion that Clauses 10, 16, 17 & 23 stand part of the Bill.**

### ***Clause 10***

1. As well as punishing people based on their mode of arrival, the two-tier system penalises those who are unable to claim asylum soon after arriving in the UK. Yet there are legitimate reasons for why women may not be able to do this.
2. Many women who have survived sexual and gender-based violence are heavily traumatised, and need time to heal and feel safe before they can share their stories of persecution with government officials. These, and other, barriers to disclosure are clearly acknowledged in the Home Office's asylum policy instruction which states:

*There may be a number of reasons why a claimant, or dependant, may be reluctant to disclose information, for example feelings of guilt, shame, and concerns about family 'honour', or fear of family members or traffickers, or having been conditioned or threatened by them. [...]*

*Those who have been sexually assaulted and or who have been victims of trafficking may suffer trauma that can impact on memory and the ability to recall information. The symptoms of this include persistent fear, a loss of self-confidence and self-esteem, difficulty in concentration, an attitude of self-blame, shame, a pervasive loss of control and memory loss or distortion.<sup>3</sup>*

3. Some women we support were unaware of what asylum is when they arrived to the UK or that they could claim asylum on the basis of the gender-based violence they suffered. This also applies to LGBT+ women we support, who were forced to live their lives in hiding; many of these women were unaware that they were refugees when they arrived, only realising that

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<sup>3</sup> Home Office (2018) *Gender Issues in the Asylum Claim*;  
[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/699703/gender-issues-in-the-asylum-claim-v3.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/699703/gender-issues-in-the-asylum-claim-v3.pdf)

they could seek asylum much later, after joining Women for Refugee Women or other LGBT+ support groups.<sup>4</sup>

4. Other women in our network escaped danger by arriving in the UK on a visa, as this was the only legal route open to them; they hoped that their stay would be temporary, but later discovered that their lives were still at risk and that they should claim protection in the UK.
5. One of these women is Agnes, who shares her story below:

*I fled my country, Côte d'Ivoire, because of political persecution. I was 55 years old at the time. I had spent most of my life in that country before I was forced to leave. I am a wife, a mother, a sister. I have brothers and I have friends.*

*I was working as a personal assistant for the First Lady of Côte d'Ivoire but when the civil war broke out I was arrested and imprisoned, along with her. Once I escaped Côte d'Ivoire I joined my daughter in the UK who was a student at the time and the only family member I could be with. When I arrived in the UK, I was expecting to return home quickly. I didn't want to stay...and hoped that the situation back home would settle soon. But it did not - it was still dangerous for people like me who were seen as threats. Many of my friends and colleagues had been killed after I had fled.*

*So, before my visa expired, I went to Croydon to ask the UK government what to do because I did not want to be illegal in this country. I was told to apply for asylum, which I did. From June 2011, I started reporting every week but one time when I went to report I was arrested and locked up in Yarl's Wood for over three months. I found this really traumatising because I was imprisoned before and it brought back awful memories.*

*My asylum claim was refused at first and again on appeal. As a result, I was made destitute and I spent several years like this. Eventually, with the help of a charity, I managed to get hold of evidence from a country expert. I was finally recognised as a refugee in 2018, around seven years after first claiming asylum.*

*Today I work for Women for Refugee Women and am the cofounder of Women with Hope, a grassroots support group for women seeking asylum in Birmingham.*

6. **We at WRW wholly object to the two tier-system in Clause 10 that would harm some of the most desperate women in need of refuge.** Given their specific experiences of abuse,

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<sup>4</sup> At Women for Refugee Women we support a group of over 70 LGBT+ women and non-binary people, called Rainbow Sisters.

and the various reasons for why they might make a late claim for asylum, we do not think that sufficient safeguards can be implemented to ensure that the 'without delay' criterion does not harm women who have survived gender-based violence.

### ***Clauses 16, 17 & 23***

7. Similarly, we are extremely concerned about the effects of Clauses 16, 17 and 23 on women who have survived sexual and gender-based violence and their ability to access refugee protection.
8. Clause 16 permits the Home Secretary to serve an evidence notice on a person who has made a protection or human rights claim, forcing them to provide evidence before a specified date.
9. If the person fails to provide evidence by that date, Clause 17 allows for their credibility to be damaged. Under Clause 23 decision-makers are instructed to give regard to the principle that 'minimal weight' be given to later evidence 'unless there are good reasons'.
10. As mentioned above, there are many good reasons for why women who have survived sexual and other gender-based violence apply for asylum late or submit late evidence, reasons that are acknowledged in Home Office policy. That policy goes on to state that **'disclosure of gender-based violence at a later stage in the asylum process should not automatically count against their credibility'**,<sup>5</sup> so it is unclear why the Home Office has gone against this in these clauses.
11. Because there are so many legitimate reasons for why a woman who has survived gender-based violence may submit evidence late, we do not think there is a way in which these evidence notices can be implemented fairly in respect to these highly vulnerable individuals. **As well as causing harm to women in desperate need of safety, these clauses are likely to lead to greater unfairness in the system, an increasing number of incorrect decisions and ultimately therefore an increase in the backlog of asylum cases.**

*For further information please contact Priscilla Dudhia, Policy & Advocacy Coordinator at Women for Refugee Women at [priscilla@refugeewomen.co.uk](mailto:priscilla@refugeewomen.co.uk) / 07869 147 248.*

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<sup>5</sup> *Supra* 3.