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GBV 49

Communities, Equality and Local Government Committee

Gender-based Violence, Domestic Abuse and Sexual Violence (Wales) Bill: Stage 1

Response from: Welsh Refugee Council

**Gender-based Violence, domestic-abuse and sexual violence legislation
Consultation evidence from the Welsh Refugee Council**

This evidence responds to the Welsh Governments proposed 'Gender-based Violence, domestic-abuse and sexual violence' legislation. It looks specifically at the experiences of asylum seeking and refugee women and the barriers women face to accessing safety, support and protection. It introduces the Welsh Refugee Council and responds to the first two questions about the general principles and omissions within the bill.

Introduction to the Welsh Refugee Council

The Welsh Refugee Council was established over 20 years ago it aims to ensure that all asylum seekers and refugees in Wales have equal access to protection, safety and dignity through delivering specialist support services and influencing policy and practice. It has since become one of the leading agencies working for refugees in Wales, defending the right to claim asylum and to live with dignity and safety in Wales.

The Welsh Refugee Council delivers a project to increase women's access to support and protection. The case worker provides support to ensure that women will feel more able to disclose their experiences and secure asylum in the UK.

From June to November 2013 the women's worker saw women experiencing commercial sexual exploitation and trafficking, domestic violence, FGM, Forced Marriage, sexual violence and torture. She provided one-to-one case work with the women to build a trusting and respectful relationship that led to disclosure of their experiences of violence and ensuring that they received the relevant support and protection.

"this project helped me so much for the first time I felt that I was being listened to and someone was doing something real for me. After spending hours with two previous solicitors making statements and eventually them withdrawing representation, I felt very very low and I was very ill. The caseworker helped me realise what I could argue in my case, I had suffered years of domestic violence and felt trapped from the society I lived in back home in Kenya. No other solicitor had asked me about this. Eventually legal aid was allowed and through a good solicitor who understood my case I won my case"¹

2.0 General principles

¹ Welsh Refugee Council, 2014, feedback from a client of the women's worker.



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The language and the naming of the bill is very important to increase awareness of Violence Against Women and Girls. In naming the disproportionate impact on women and girls and labelling gender inequality as the root cause and consequences, people across Wales can develop and deliver a strategic approach to end it.

2.1 Naming the bill

The general principle of Violence Against Women and Girls (VAWG) has been weakened through naming the bill 'Gender-based Violence, Domestic-Abuse and Sexual Violence'. This confuses the principle that all

these forms of violence, and crime types, are actually disproportionately experienced by women and girls, and a response must put their needs at the heart of policy and practice. It is not good enough.

It is only through the explicit naming of the bill as 'Violence Against Women and Girls' that the structural issues of gender inequality can be addressed. This is particularly pertinent when it comes to legislation around prevention, because without explicitly stating an understanding of gender inequality as the root cause and consequence of VAWG it is very difficult to establish a response to prevention.

It is also very disappointing that forms of Violence Against Women and Girls (VAWG) such as Female Genital Mutilation (FGM), forced marriage, sexual harassment, sexual exploitation, and stalking are not sufficiently incorporated into the bill. It does not make sense that these forms of VAWG are not named when domestic abuse and sexual violence are named.

Men and boys do experience crimes that are known as Violence Against Women and Girls, including domestic abuse, sexual violence, sexual harassment, sexual exploitation, forced marriage, crimes in the name of so-called 'honour', and stalking. But women and girls disproportionately experience these crime types.

The lack of a gender analysis to the bill is deeply concerning and will mean that there will be a decrease in the understanding and engagement of national government and local authorities in the disproportionate impact of these crime types on women and girls. This means that the root causes of gender-inequality will not be recognised nor acted upon, therefore the Bill will fall short of addressing the issues it is seeking to stop.

How will the Welsh Government give a clear message that gender inequality is the cause and consequence of Violence Against Women and Girls and that these crime types are all disproportionately experienced by women and girls?

2.2 Ministerial advisor

The scrutiny of strategies and the co-ordination of the bill requires a strong independent voice that can hold the Welsh Government, local authorities and public services to account. A Ministerial advisor on Gender-based Violence, Domestic Abuse and Sexual violence is not good enough, an independent and sufficiently resourced commissioner is needed who can give proper scrutiny to the strategies and actions.

The proposed ministerial advisor needs to be named a Violence Against Women and Girls lead to give a clear message that there is a commitment and understanding of the issue. In England there is currently a shadow Minister for Preventing Violence Against Women and Girls who will be responsible for championing



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the needs of victims of rape, domestic and sexual violence, as well as female genital mutilation, forced marriage, trafficking and prostitution.² There is no reason why this cannot be done in Wales.

How will a ministerial advisor maintain independent scrutiny and hold the Welsh Government to account?**2.3 National & local strategies**

We welcome the strengthening of national and local strategies but are concerned that they need to incorporate all forms of Violence Against Women and Girls and that they need to be fully aware of the disproportionate impact on women and girls.

It is widely known that there is very low reporting of all forms of Violence Against Women and Girls (VAWG), including domestic abuse, sexual violence, Female Genital Mutilation (FGM), Forced Marriage, stalking, sexual harassment and sexual exploitation. A full understanding of the numbers of survivors and their needs will be very difficult for a needs analysis to identify. Particularly hidden are incidences of FGM and forced marriage, and of women with no recourse to public funds. Local Authorities and the National Government will struggle to get a good picture of the needs of women and girls in Wales.

Every local authority needs to consider all forms of Violence Against Women and Girls (VAWG) within their strategy development, as even small numbers of survivors need to be responded to. We know that the majority of women with FGM or at risk of FGM are located in Cardiff so would expect main service delivery to be focused in Cardiff, but figures show that there are cases in the rest of Wales that need to be considered. Forward's report revealed that there are rising numbers of women being identified with FGM through the number of maternities to women with FGM - in 2001 70 women in Cardiff and 18 women in the rest of Wales, in 2004 there were 103 women in Cardiff and 28 women in the rest of Wales.³

"Women with FGM are largely but not exclusively concentrated in particular areas, but there are many other areas of the country where there are smaller numbers of affected women. It is therefore important to ensure that services in all areas respond to their needs and the potential risks to their daughters."⁴

How will local authority and national governments needs analysis get an accurate picture of the experiences of all women and girls, particularly asylum seekers and refugees?**3.0 Omissions to the bill.**

The needs and experiences of migrant, asylum seeker and refugee women and girls must be integrated across the bill, including within the training and education framework. This will mean that asylum seeker, refugee and destitute women and girls are entitled to access prevention, protection and support from the day they arrive in Wales. "The Welsh Government should send a strong signal that people experiencing violence and abuse will not be turned away from receiving help in Wales because of their citizenship status."⁵ There is also a serious lack of commitment to prevention education.

² Seema Malhotra MP was appointed Labour Shadow Minister for Prevention of Violence Against Women and Girls in August 2014

³ Dorkenoo, E., Morison, L. and Macfarlane, A. (2007) [A statistical study to estimate the prevalence of female genital mutilation in England and Wales \(PDF\)](#). London: FORWARD.

⁴ Dorkenoo, E., Morison, L. and Macfarlane, A. (2007) [A statistical study to estimate the prevalence of female genital mutilation in England and Wales \(PDF\)](#). London: FORWARD.

⁵ Wales Migration Partnership, 2013, Violence against women White Paper Consultation



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3.1 Including asylum seeker and refugee women and girls

Further understanding of the experiences of asylum seeker and refugee women needs to be developed, as we know that people experience high incidences of VAWG but that there are many barriers to disclosure. Asylum seeker and refugee women experience high rates of violence against women and girls, including sexual violence, forced marriage, female genital mutilation, sexual exploitation, human trafficking and domestic violence⁶. A study published by the Scottish Refugee Council in 2009 found that 70% of women seeking asylum in Scotland had experienced physical and/or sexual violence in their lifetime; 38% had

experienced intimate partner violence; and 65% reported that their children had witnessed some form of violence.⁷ Asylum seeker and refugee women and girls in Wales are therefore highly likely to have experienced violence in their lifetime, in their country of origin, in a refugee camp, on the journey, or in the UK.

The speed of the asylum determination process does not enable a safe and supportive environment for women to disclose their experience of violence. Women remain silent, due to a complex mix of gender norms, roles and expectations, cultural barriers, shame, fear of authorities, and the need to prioritise their own and potentially their family's survival. This then results in women not being able to access the support services that they need, or include the relevant information within their asylum claim therefore meaning they are unable to access protection. Women asylum seekers and refugees can face discrimination and abuse from service providers. As one service provider reported in our recent needs analysis: "Disdain and racism of service providers... often exacerbates the feelings of instability, isolation and depression which afflict many."⁸

Asylum seeker and refugee women and girls often experience multiple layers of discrimination and violence due to their immigration status that can limit their access to support and services. This intersection of multiple forms of discrimination is rarely understood or responded to by policy makers and service providers. The legislation therefore needs to take into account the multiple experiences of discrimination and violence.

3.2 Responding to the needs of women and girls with no recourse to public funds.

The Wales Migration Partnership recently found that asylum-seeker, refugee and migrant women and girls who experience violence experience numerous barriers to access support. Their research identified a 'culture of referral', wherein women and girls seeking support are passed from service to service without receiving help, because some professionals do not understand their 'cultural' issues or the ramifications of their immigration status. Some barriers relate to cultural pressures regarding domestic violence, women's roles and relationships, other barriers were due to the fact that many "women do not have access to public funds and so face the stark choice of becoming destitute or staying with their abuser"⁹.

⁶ Welsh Refugee Council pilot project in 2010-11, and the Refugee Council's 2009 report *The Vulnerable Women's Project Good Practice Guide: Assisting Refugee and Asylum Seeking Women affected by Rape or Sexual Violence*, Women for Refugee Women's 2012 Report *Refused – The Experiences of Women Denied Asylum in the UK*.

⁷ Zimmerman, C. et al (2009) *Asylum seeking women: violence and health*, London School of Hygiene & Tropical Medicine and Scottish Refugee Council, http://www.scottishrefugeecouncil.org.uk/assets/0000/0097/Asylum_seeking_women_violence_and_health.pdf; Dorling, K. et al (2012) *Refused: the experiences of women denied asylum in the UK*, Women for Refugee Women, <http://www.refugeewomen.com/images/refused.pdf>

⁸ Welsh Refugee Council, 2013, *Needs Analysis of Asylum Seekers and Refugees in Wales*.

⁹ Hubbard, A., Payton, J., and Robinson, A. 2013. *Unchartered Territory: Violence against migrant, refugee and asylum seeking women in Wales*. Wales Migration Partnership.



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Case study: A pregnant woman fled domestic violence with two young children and went to a refuge in South Wales. She had no recourse to public funds due to the insecure immigration status of herself and her abusive partner. The refuge staff tried to find a safe house for the woman and children but BAWSO, the only organisation with limited resources to accept women with no recourse to public funds, was already full. They also contacted the local social services who refused to help. The women and her children were temporarily housed in the refuge and then ended up in hospital.¹⁰

The Home Office Destitution Domestic Violence Concession (DDV) was developed to address the problems of women and girls experiencing violence but unable to seek help due to No Recourse to Public

Funds. The Wales Migration Partnership identified¹¹ that this process is very bureaucratic, and requires a high standard of proof and excludes several categories of vulnerable women and girls such as women in marriages, which are not legally recognised in the UK, and women married to EU nationals. This complicated situation means that there is a great deal of confusion around women's entitlements which impacts upon service provision.

The Wales Migration Partnership research¹² recommended that expenses for refuge or other accommodation for women and children with no recourse to public funds should be made available, and underwritten by the Welsh Government where necessary, in order to address their needs and protect their human rights, where they would otherwise be homeless. This should be a cost effective solution and weighted against the overall costs of gender-based violence across the broader economy. In making this provision available, the Welsh Government will be upholding the human rights treaties to which it has signed.

In the Welsh Refugee Council's needs analysis 2013 we concluded that women need gender-sensitive, specialist case work to enable women to feel safe and supported to disclose, access services and claim their right to protection. As a service provider reported "Building trust and relationships is important – home visits would be good if possible. It can be very difficult to engage women as they face many barriers to accessing services. Women can be "buried in their homes and kept isolated by the men and their families".¹³

How will the needs of women and girls with no recourse to public funds be identified and met?

3.3 Strengthening safeguarding

There is a real lack of understanding across education of how forms of Violence Against Women and Girls fit within safeguarding procedures. The legislation needs to be clearer in its intention to support and complement safeguarding, there needs to be explicit actions on strengthening safeguarding. Research by WOMANKIND in 2010 found that a barrier to education staffs engagement in working to stop Violence Against Women and Girls was "Anxiety about 'opening Pandora's box' / 'a can of worms' "¹⁴. There was a

¹⁰ Welsh Refugee Council, April 2014 case study from Women's worker

¹¹ Hubbard, A., Payton, J., and Robinson, A. 2013. *Unchartered Territory: Violence against migrant, refugee and asylum seeking women in Wales*. Wales Migration Partnership.

¹² Hubbard, A., Payton, J., and Robinson, A. 2013. *Unchartered Territory*, Wales Migration Partnership, 2013, Violence against migrant, refugee and asylum-seeking women in Wales

¹³ Welsh Refugee Council, 2013, Needs Analysis of Asylum Seekers and Refugees in Wales.

¹⁴ Maxwell C, with Wharf H, (2010) *Freedom to Achieve: Preventing Violence, promoting equality. A whole-school approach. Womankind Worldwide* http://www.womankind.org.uk/wp-content/uploads/2011/02/WKREPORT_web-24-NOV-2010.pdf



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lack of understanding on how incidences of VAWG were actually automatically a part of child protection and safeguarding, including:

- In 2012-2013, 22,654 sexual offences against under-18s were reported to police in England and Wales with four out of five cases involving girls.¹⁵
- 25% of young women (aged over 13) experience physical violence and 72% experience emotional abuse in their own relationships.¹⁶ⁱⁱ
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- Child prostitution is a serious safeguarding issue in the UK as a large percentage of women in prostitution disclose having entered before they were 18, 45% experienced childhood sexual abuse and 70% were children in the care system.¹⁷
- 16,000 girls (under 16) are at high risk of Female Genital Mutilation¹⁸.

Education settings have an important role to respond and intervene to the needs of girls and young women through safeguarding and prevention programmes. Girls and young women experience high levels of violence and discrimination, some within their actual school:

- 46% of 18-year-olds polled said sending sexual or naked photographs and videos was "part of everyday life for teenagers nowadays"¹⁹
- Almost 1 in 3 girls and young women experience unwanted sexual touching in UK schools²⁰

How will safeguarding procedures, that we know are not currently understood as including all forms of Violence Against Women and Girls, be strengthened?

3.4 Commitment to prevention education

It is a huge disappointment that there is a serious lack of commitment to the role of prevention education within the legislation. To have a bill that truly takes forward an intention to deliver on prevention through education and early intervention there needs to be more detail within this legislation, including the obligation for all education institutions, including primary schools, secondary schools and pupil referral units, to have a Violence Against Women and Girls policy or strategy and lessons on challenging gender inequality, building respectful relationships and identifying forms of Violence Against Women and Girls. An education strategy would link to the curriculum, to safeguarding, to staff training, to assemblies, to community engagement, parent/carer communications, participation programmes, and much more... Prevention education is more than just a review of the curriculum it is about developing and delivering a strategic and comprehensive programme to stop Violence Against Women and Girls. Hannah Wharf and

¹⁵ [Sexual abuse of under-11s: reports to police rise 16% in 2012-13](#), NSPCC, 2014

¹⁶ [Partner exploitation and violence in teenage intimate relationships](#), NSPCC, 2009

¹⁷ [Shifting the Burden: Inquiry to assess the operation of the current legal settlement on prostitution in England and Wales](#), APPG on Prostitution and the Global Sex Trade, 2014

¹⁸ Dorkenoo, E., Morison, L. and Macfarlane, A. (2007) *A statistical study to estimate the prevalence of female genital mutilation in England and Wales* (PDF). London: FORWARD.

¹⁹ Parker, I. (2014) [Young people, sex and relationships: The new norms](#) IPPR

²⁰ End Violence Against Women Coalition (EVAW), 2010 [Schools safe for girls](#)



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AVA²¹ have been working with prevention practitioners for years to figure out 'what works' in education to stop Violence Against Women and Girls. They have developed a 'whole-school approach' that considers both the key people (children and young people, staff and parents/carers) and the key activities that education institutions can use as a framework for developing their own strategies or policies on stopping Violence Against Women and Girls. More information can be found at the recently launched [Prevention Platform](#). An outline of the key components of the model can be seen below:



With no clear focus on prevention and education the bill will not deliver on any intention from the Welsh Government to prevent Violence Against Women and Girls. There will also be an increased cost in the future due to the serious and expensive costs of all forms of Violence Against Women and Girls.

How will the bill take forward a commitment to a strategic approach to prevention education to stop Violence Against Women and Girls?

Hannah Wharf, Policy & Communications Manager, Welsh Refugee Council

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²¹ Maxwell, C, Sharpen, J and Wharf H (2014) Prevention Practitioners, AVA



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