

Written evidence from Women for Refugee Women [EAP0003]

About Women for Refugee Women

Women for Refugee Women (WRW) is a charity that works with women seeking asylum in the UK to challenge the injustices of the asylum system: <https://www.refugeewomen.co.uk/>

Summary of submission

- WRW's research indicates that a high proportion of women seeking asylum in the UK have experienced some kind of gendered persecution in their countries of origin.
- **However, the UK's asylum system does not help and support these survivors of gender-based violence. Rather, it actively harms and retraumatizes them.**
- Women's asylum claims are often wrongly refused. This can be because of difficulties in evidencing the persecution they have experienced, as well as poor legal representation. Most significantly it is because of the Home Office's 'culture of disbelief', which means women's experiences of persecution are routinely dismissed by decision-makers.
- When women's asylum claims are refused they may be made destitute, which exposes them to further gendered violence, including sexual assault and domestic violence.
- Women who have been refused asylum can also be locked up indefinitely in immigration detention, which has a devastating impact on their mental health.
- Instead of addressing the harms of the current asylum system, the government appears determined to make them even worse, through a number of worrying measures in the Nationality and Borders Bill which is currently going through Parliament.

What is the nature and extent of UK asylum claims based on discrimination or persecution relating to the protected characteristics?

1. Women make up around a quarter of all asylum claimants in the UK. In 2020, 6,679 of the total of 29,815 asylum claims were made by women – so, 22%.¹ In 2019, women made up 26% of asylum claimants; in 2018, 27%.²
2. The Home Office does not publish statistics on the types of persecution women flee and whether sexual violence or other forms of gender-related persecution make up any part of their claim. However, **research that WRW has conducted over many years has consistently found that a high proportion of women seeking asylum have experienced some kind of gendered persecution in their countries of origin.**
3. Gendered persecution includes violence against women that takes place in the 'private' sphere: for instance, domestic violence, forced marriage, forced prostitution and FGM. It also includes where a woman is persecuted for reasons that are not based on her gender – such as because of her political activities, or her religion – but that persecution takes the form of rape or sexual violence.

¹ Home Office (2021) *Immigration Statistics, Year ending June 2021: How Many People Do We Grant Asylum or Protection to*; <https://www.gov.uk/government/statistics/immigration-statistics-year-ending-june-2021/how-many-people-do-we-grant-asylum-or-protection-to>

² Refugee Council (2021) *Asylum Statistics Annual Trends August 2021*; <https://media.refugeecouncil.org.uk/wp-content/uploads/2021/09/03080955/Asylum-Statistics-Annual-Trends-Aug-2021.pdf>

4. For our 2012 report *Refused*, we interviewed 72 women who had claimed asylum in the UK. Of the 65 women who disclosed their experiences of persecution, **66 per cent said they had experienced some kind of gender-related persecution, including rape, sexual violence, forced prostitution, forced marriage or FGM.**³
5. For our 2017 report *We Are Still Here*, we interviewed 26 asylum-seeking women who were currently or recently detained under immigration powers. **Eighty-five per cent of these women said they were survivors of gender-based violence, including rape, domestic violence, forced marriage, forced prostitution and FGM.**⁴
6. Most recently, for our 2020 report *Will I Ever Be Safe?* we interviewed 106 asylum-seeking women who had been made destitute in the UK. Of the 103 women who disclosed their experiences of persecution, **78 per cent said they had experienced gender-based violence.** Fifty-nine per cent had been raped; 30 per cent were raped by state authorities; 17 per cent were fleeing forced marriage; 13 per cent were fleeing forced prostitution; and 10 per cent were fleeing FGM or the threat of FGM on their daughters.
7. Moreover, **45% of the 106 women who participated in the research said they had experienced rape, sexual violence, torture, physical violence and/or imprisonment during their journey to the UK.**⁵

Are those with certain protected characteristics more or less likely to be granted asylum in the UK?

8. In 2020, the grant rate for women's asylum claims was 50 per cent. This was an increase on previous years; in both 2017 and 2018, the grant rate for women was much lower, at 31 per cent.⁶
9. It remains the case, however, that a significant proportion of refusals of women's asylum claims are subsequently overturned on appeal. In 2020, 43 per cent of women's asylum appeals were allowed; in 2019 this figure was 44 per cent, and in 2018 43 per cent. The percentage of women's appeals that are allowed has consistently been higher than for men: in 2020 38 per cent of men's appeals were successful, and in both 2019 and 2018 40 per cent.⁷
10. The significant proportion of refusals of women's asylum claims that are overturned on appeal points towards the difficulties that women face in getting their need for protection recognised by the Home Office. Indeed, over the years we have worked with many women whom the Home Office have ultimately recognised as refugees – but only

³ Women for Refugee Women (2012) *Refused: The Experiences of Women Denied Asylum in the UK*; <https://www.refugeewomen.co.uk/wp-content/uploads/2019/01/women-for-refugee-women-reports-refused.pdf>

⁴ Women for Refugee Women (2017) *We Are Still Here: The Continued Detention of Women Seeking Asylum in Yarl's Wood*; <https://www.refugeewomen.co.uk/wp-content/uploads/2019/01/women-for-refugee-women-reports-we-are-still-here.pdf>

⁵ Women for Refugee Women (2020) *Will I Ever Be Safe? Asylum-seeking Women Made Destitute in the UK*; <https://www.refugeewomen.co.uk/wp-content/uploads/2020/02/WRW-Will-I-ever-be-safe-web.pdf>

⁶ Refugee Council (2021) *Asylum Statistics Annual Trends August 2021*.

⁷ *Ibid.*

after these women have spent many years going through the asylum system.

11. Below we document the significant difficulties that women face in getting their need for protection recognised. As we also explain, when women's asylum claims are refused they are exposed to further harm, including being made destitute and locked up in immigration detention. **This means that women who have already survived serious human rights abuses are retraumatised and made even more vulnerable by the UK's asylum system.**

***Is the UK asylum process safe and fair for those with protected characteristics?
Are individuals with certain protected characteristics more at risk of harm or unfair treatment when going through the UK asylum process?***

12. The UK asylum system is not safe and fair for women. As we explain below, women's asylum claims are often wrongly refused. This can be because of particular difficulties that women face in evidencing the persecution they have experienced, as well as poor legal representation, by lawyers who have limited understanding of women's asylum claims. Most significantly, women seeking asylum are subjected to the Home Office's 'culture of disbelief', which means that their experiences of violence and persecution are routinely dismissed by decision-makers.
13. When women's asylum claims are refused, they may be made destitute, which exposes them to further gendered violence, including sexual assault and domestic violence. They may also be locked up indefinitely in immigration detention, which has a devastating impact on their mental health.
14. Worryingly, the Nationality and Borders Bill, which is currently going through Parliament, will exacerbate the harms of the UK asylum system for women. Indeed, some of the proposed measures in the Bill are likely to have a disproportionate impact on women and put them at particular risk of unfair treatment.

Decision-making in women's asylum cases

15. Women face a number of barriers to getting their claims for protection recognised. For instance, it can be very difficult to evidence the gendered persecution they have experienced. Rape and sexual assault, and sexual exploitation, are often more difficult to 'prove' because unlike other forms of torture they do not always leave physical scarring.
16. Inadequate legal representation presents a further barrier. Years of legal aid cuts mean that it has become increasingly difficult for people seeking asylum to find a solicitor to represent them, despite the fact that legal aid is still formally available for asylum cases. Women face particular difficulties in finding good quality legal representation. We have worked with many women who have been represented by lawyers who have a limited understanding of the often-particular nature of women's claims. Consequently, these lawyers do not ask the right questions and present the best possible case for their client, which makes it easy for the Home Office to dismiss the claim.
17. Most significantly, women seeking asylum are subjected to the Home Office's well-documented 'culture of disbelief'. It is important to understand that the culture of disbelief within the Home Office is not a matter of a lack of knowledge or understanding on the part of individual caseworkers, which can be rectified through guidance and/or

training. Rather, the culture of disbelief that pervades asylum casework means that **the starting point for Home Office decision-makers is one of suspicion, and that they actively look for reasons to refuse a protection claim.** As a result, women's accounts of the violence and persecution they have experienced are routinely disputed and dismissed.

18. Two examples from our recent research reports demonstrate the culture of disbelief at work in women's asylum cases. In *Will I Ever Be Safe?* (2020), we document the case of Glory,⁸ a woman in our network who was repeatedly raped by a powerful man who was a friend of her family. In her asylum refusal letter, the Home Office justified its decision to deny her protection in part through the ridiculous assertion that 'the actions you describe [i.e. the rapes she was subjected to] are inconsistent with someone who you claim was a family friend.'
19. For our 2019 report *From One Hell to Another*, we examined the cases of 14 women from China who had been trafficked into exploitation in the UK. In one case, the Home Office said that the woman's account of sexual exploitation could not be believed because she had not disclosed this as soon as she was encountered in a brothel, to the immigration officers who had arrested her there.⁹ Not only is such a statement absurd – but it is in direct contravention of the Home Office's own guidance, which explains that delayed disclosure is not a reason for questioning the credibility of a victim of trafficking.¹⁰
20. The culture of disbelief is one way in which the racism of the UK's asylum system manifests. In its *Tackling Violence Against Women and Girls Strategy*, which was published earlier this year, the Home Office states: 'We want to ensure that victims and survivors can be confident they will get the support they deserve'.¹¹ **Yet for asylum-seeking women, the majority of whom are from racially minoritised groups, the response of the Home Office is not support and protection but disbelief and dismissal.**
21. As we now explain, when women's asylum claims are refused they are often made destitute, and may be locked up in immigration detention. **This means that asylum-seeking survivors of gendered violence are actively harmed and retraumatised by the UK's asylum system.**

Women seeking asylum and destitution

22. If a woman is refused asylum, and subsequently appeals unsuccessfully against this decision, her appeal rights are declared to be 'exhausted'. Following this, Section 95 support – which consists of low-level financial support and accommodation while someone is going through the asylum process – is stopped, generally 21 days after refusal. Some women who have been refused asylum may qualify for Section 4 support,

⁸ All names used in this submission are pseudonyms, to protect women's anonymity.

⁹ Women for Refugee Women (2019) *From One Hell to Another: The Detention of Chinese Women Who Have Been Trafficked to the UK*; <https://www.refugeewomen.co.uk/wp-content/uploads/2019/07/From-one-hell-to-another-Women-for-Refugee-Women.pdf>

¹⁰ Home Office (2021) *Modern Slavery: Statutory Guidance for England and Wales*; https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/993172/Modern_Slavery_Statutory_Guidance_EW_Non-Statutory_Guidance_SNI_v2.3.pdf

¹¹ Home Office (2021) *Tackling Violence Against Women and Girls Strategy*; <https://www.gov.uk/government/publications/tackling-violence-against-women-and-girls-strategy>

which is typically 'cashless' financial support and accommodation. However, the criteria for Section 4 support is very restrictive. **Thus, many women who become 'appeal rights exhausted' are made destitute by the Home Office; that is, their financial support and accommodation are completely cut off.**

23. When women are made destitute they are subjected to a range of harms. Our 2020 report *Will I Ever Be Safe?*, which spoke to 106 asylum-seeking women who had experienced destitution in the UK, found that 27 per cent of these women said they were hungry 'all the time' when destitute, while 38 per cent were hungry 'most of the time'. Moreover, 44 per cent of the women we interviewed had been street homeless at some point while destitute. Women told us about sleeping on the streets and night buses, in stations and parks, inside public telephone booths, and on church and mosque floors. Several women slept outside during winter.
24. The harms highlighted above affect both men and women seeking asylum. However, when asylum-seeking women are made destitute they are at particular risk of sexual violence. **Twenty-five per cent of the women we interviewed for *Will I Ever Be Safe?* were raped or experienced another form of sexual violence when sleeping outside or at a place they were temporarily staying. Many of these women had previously been raped or suffered another form of sexual violence in their country of origin.**
25. Being made destitute also traps women in abusive relationships. Thirty-five per cent of the women we spoke to said that destitution had forced them to remain in a relationship they would not have otherwise stayed in if they were able to meet basic needs like food and shelter. **Thirty-eight per cent of those who stayed in an unwanted relationship were raped by their partner, 41 per cent experienced another form of sexual violence, and 35 per cent were physically abused.**
26. Women who have been refused asylum are often too scared to report such abuse to the police, because of the very real possibility that the police will share their details with immigration enforcement. Additionally, several women told us about how the threat of detention and deportation was weaponised by their partners, keeping them trapped in violent relationships. Tanisha explained: 'My partner told me I was illegal and that I could not report anything ... he said he would have me deported.'
27. The mental health effects of being trapped in such a situation are severe. Gracie told us: 'I was being sexually abused. I was so ashamed that I wanted to kill myself. I had no money, no food. I didn't have a phone because my abusive partner took it from me. I didn't have anywhere to turn to.' Indeed, almost all the women in our research stated that their mental health deteriorated while they were destitute, and 78 per cent reported that it became 'much worse'. **Around a third of the women we spoke to said they had tried to kill themselves while destitute.**
28. The purpose of making people who have been refused asylum destitute is supposed to be to deter them from remaining in the UK. As we highlighted earlier, however, women face significant barriers to getting their claims for protection recognised and so many are wrongly refused. Consequently, it simply is not safe for them to return to their

country of origin – and therefore, alongside being incredibly harmful, the policy of enforced destitution is not going to work as a deterrent.

29. Monique, originally from DR Congo, explained: ‘I am scared of going back home. I have been detained three times and tortured three times. The same [people who did this to me] are still in power now.’ Indeed, almost all of the 106 women we spoke to for *Will I Ever Be Safe?* said they could not consider returning to their countries of origin, because they still felt that they would not be safe there.

Women seeking asylum and detention

30. When women seeking asylum are refused protection and become ‘appeal rights exhausted’, they also become liable to detention. **Being locked up in detention is highly traumatising.** For our 2015 report *I Am Human*, we interviewed women who were currently or recently detained in Yarl’s Wood, then the main detention centre for women in the UK. Of 36 women who answered, 19, or **more than half, were or had been on suicide watch in Yarl’s Wood.** Of 35 women who answered, 14, or **40 per cent, said they had self-harmed while detained.**
31. Some of the women we spoke to explained how being detained triggered memories of the torture and abuse they had been subjected to in their countries of origin. One woman told us: ‘Being locked up reminds me of the sexual abuse I suffered. I feel completely powerless in the same way. I feel like I am invisible and being overlooked.’¹²
32. Moreover, there is no time limit on immigration detention in the UK. Thus, women can be locked up for weeks, months, and even years, without any idea of when they will be released. Voke, who we interviewed for our report *We Are Still Here* (2017), explained the effects of indefinite detention on her: ‘After I had been in detention for seven months, I couldn’t see the point of my life anymore ... So I tried to kill myself. I just felt like my life had been taken away from me.’
33. As well as being incredibly harmful, detention is also often pointless. The stated purpose of detention is removal from the UK. Yet Home Office statistics demonstrate that the vast majority of people leaving detention are released back into the community, to continue with their cases. In the year ending December 2019, for instance, before the pandemic started, just 37% of people leaving detention were removed from the UK.¹³
34. For women seeking asylum, the removal rate is even lower. Figures supplied to WRW by the Home Office show that in 2019, just 122 of the 1,550 asylum-seeking women released from detention were removed from the UK. **The vast majority – 1,428 women, or 92% – were released back into the community, to continue with their cases.**¹⁴

¹² Women for Refugee Women (2015) *I Am Human: Refugee Women’s Experiences of Detention in the UK*; <https://www.refugeewomen.co.uk/wp-content/uploads/2019/01/women-for-refugee-women-reports-i-am-human.pdf>

¹³ Home Office (2020) *Immigration Statistics, Year Ending December 2019: How Many People Are Detained or Returned*; <https://www.gov.uk/government/statistics/immigration-statistics-year-ending-december-2019/how-many-people-are-detained-or-returned>

¹⁴ These statistics are not published as part of the Home Office’s quarterly immigration statistics.

35. The Home Office does not publish figures on how many people are granted refugee status following release from detention. However, we have worked with many women who have been recognised as refugees after many months of being locked up. Voke, who we mentioned above, was finally released from Yarl's Wood in late 2017, after being detained there for almost eight months. In 2020, she received a positive conclusive grounds decision from the National Referral Mechanism, meaning the Home Office recognises she is a victim of trafficking. In early 2021, she was given refugee status.
36. In early 2019 the Home Office began an innovative 'alternative to detention' pilot for women seeking asylum, **which was focused on resolving their cases in the community**. Subsequently, in August 2020, it was announced that Yarl's Wood would no longer be used to detain women. We hoped that both of these developments marked a clear shift away from the harmful practice of locking up women.
37. In February 2021, however, it emerged that the Home Office is planning to open a new detention centre for women, at Hassockfield in County Durham. This new detention centre – which the Home Office has renamed 'Derwentside' – will hold up to 84 women at any one time. Initially the Home Office stated that Hassockfield/Derwentside would open in Autumn 2021, although we now understand that it may not open until December.
38. The Home Office's decision to open a new detention centre for women seems inexplicable. Since 2018 the number of women in detention has been falling steadily, and the most recent figures show that at the end of June 2021 there were just 37 women in detention.¹⁵ **As such, the Home Office could end its use of detention for women today, and focus on resolving their cases in the community.**

The effects of the Nationality and Borders Bill on women seeking asylum

39. As we have explained, the current asylum system makes it very difficult for women to get their protection claims recognised, and when their claims are refused they are retraumatised and made even more vulnerable through the policies of enforced destitution and immigration detention. However, rather than rectifying these issues, the government seems determined to make them even worse. **The Nationality and Borders Bill, which is currently going through Parliament, will make it much harder for women to be recognised as refugees, and will increase the harms of the UK's asylum system for them.**
40. For instance, Clause 10 of the Bill would establish a two-tier system of protection. Under this, people who have arrived in the UK via a 'safe' third country, **or who have not presented themselves to the authorities 'without delay'**, would be given limited leave to remain if recognised as a refugee. They would also have restricted rights to family reunion, and limited access to public funds.
41. Yet women who have survived gendered violence are often heavily traumatised, and need time to heal and feel safe before they can explain what has happened to them. The

¹⁵ Home Office (2021) *Immigration Statistics, Year Ending June 2021: How Many People Are Detained or Returned*; <https://www.gov.uk/government/statistics/immigration-statistics-year-ending-june-2021/how-many-people-are-detained-or-returned>

difficulties in disclosure that women can face are acknowledged in Home Office guidance on *Gender Issues in the Asylum Claim*.¹⁶ So, Clause 10's requirement for asylum claims to be made 'without delay' contradicts the Home Office's own policy.

42. Similarly, Clauses 16, 17 and 23 would penalise women for not being able to disclose what has happened to them right away. Clause 16 permits the Home Secretary to serve an evidence notice on a person who has made a protection/human rights claim, forcing them to raise all the reasons why they need protection. Clause 17 specifies that if the person fails to provide evidence within a specified period their credibility could be damaged. Further, 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', which is undefined in the Bill and therefore left entirely to the discretion of the Home Secretary.
43. Yet, as we have explained, many women who have fled gendered violence find it very difficult to share these experiences right away – something which is acknowledged by the Home Office guidance *Gender Issues in the Asylum Claim*. The same guidance also acknowledges that women who have been trafficked to the UK may be facing threats from their traffickers at the time of their interview, such that they are unable to speak openly. Additionally, women who have fled persecution because of their sexual orientation may not feel able to disclose their sexuality during the time of their initial claim; they may still be coming to terms with it themselves, a process which can take years. **Thus, Clauses 16, 17 and 23 will make it much more difficult for women to get their protection claims recognised.**
44. So too will Clause 30, which introduces a restricted definition of 'particular social group' – a ground in the Refugee Convention on which women escaping 'private' violence frequently depend in their asylum claims. **Clause 30 would reverse UK jurisprudence, by providing that two criteria must be met in order for an applicant to show that they are a member of 'particular social group', not one as is currently the case.** As such, women will face an additional hurdle to getting their protection claims recognised. Indeed, this measure is likely to have a disproportionate impact on them, given that many women rely on this ground.
45. The Bill also introduces some very worrying provisions in relation to detention. Clause 24 reintroduces an accelerated appeals procedure for people whose asylum claims are being processed while they are detained. **Those subject to the accelerated procedure will have just five days to lodge an appeal against a negative decision on their case.**
46. The previous accelerated appeals process for detained asylum claimants operated as part of the Detained Fast Track (DFT), which was abolished in 2015 following a Court of Appeal finding that it was 'structurally unfair and unjust'.¹⁷ Vulnerable claimants, including women who had experienced rape and trafficking, were routinely routed into

¹⁶ 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

¹⁷ Detention Action (2016) *The Fast Track is Dead*; <https://detentionaction.org.uk/2016/05/24/the-fast-track-is-dead/>

the DFT, and the accelerated timescale for lodging an appeal made it impossible for them to meaningfully challenge a refusal of their asylum claim. **Given what happened with the DFT, we have no confidence that women who have survived rape and other gendered violence will not be subjected to the new ‘fast-track’ appeals process**, despite government claims that it will only be used for ‘straightforward’ cases.

47. Finally, Clause 26 and Schedule 3 would allow the government to remove people seeking asylum to countries outside the UK, and hold them in detention there, while their asylum claims are processed i.e. to subject them to ‘offshore’ detention. **We are extremely concerned about the conditions in which women would be held, and in particular the risk to them of sexual violence and abuse.**

48. In detention centres in the UK, where there are a range of safeguarding mechanisms in place, this has not been enough to protect women in detention from abuse. **The 2015 Lampard Report on Yarl’s Wood highlighted that between 2007-15, 10 members of staff were dismissed for incidents involving ‘sexual impropriety’ towards women held there.** Such ‘impropriety’ included the repeated sexual harassment and abuse of 29-year-old woman by a male healthcare worker.¹⁸ The UK government will have even less control over the treatment of detainees in offshore detention centres. Thus, the risk to women of sexual violence and abuse in such centres will be increased. The sexual harassment and violence that women detained offshore by the Australian government were subjected to has been well documented.¹⁹

How is the Government addressing any discrimination or specific dangers for those with protected characteristics in the asylum process, and what more could be done?

49. Instead of aggravating the harms of the current asylum system for women, as it is doing through the Nationality and Borders Bill, there are a number of key ways in which the government could ensure that the UK’s asylum system provides women with help and support:

- By ensuring that there is a culture of protection at the core of the asylum system, rather than one of disbelief;
- By ensuring access to quality legal representation at all stages of the asylum process;
- By ensuring specialist mental health support;
- By ending the policy of enforced destitution;
- By ending the use of immigration detention.

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¹⁸ Lampard, K. (2016) *Independent Investigation into Concerns about Yarl’s Wood Immigration Removal Centre*; <https://www.verita.net/wp-content/uploads/2016/04/Independent-investigation-into-concerns-about-Yarls-Wood-immigration-removal-centre-Serco-plc-Kate-Lampard-Ed-Marsden-January-2016-1.pdf>

¹⁹ See, for instance, Refugee Council of Australia (2020) *Australia’s Man-made Crisis on Nauru*; <https://www.refugeecouncil.org.au/nauru-report/>