

Labour Exploitation Advisory Group

Submission to the Home Affairs Committee Inquiry on Policing Priorities

October 2022

About LEAG

The Labour Exploitation Advisory Group (LEAG) is a group of experts from ten organisations¹ supporting people in, or at risk of, severe forms of labour exploitation, such as human trafficking, forced labour and slavery. LEAG members work on a range of issues that are crucial for preventing labour exploitation, including migrants' rights, women's rights, labour rights and victim support. Members work together to assess the impact of formal and informal responses to tackling labour exploitation by both government and non-governmental actors; and to identify barriers and develop joint strategies for improving the relevance and effectiveness of local and national responses to tackle labour abuse and exploitation.

Introduction

1. LEAG welcomes the opportunities to contribute to the Home Affairs Committee's call for evidence on policing priorities. This submission focuses on LEAG's concerns around the current prioritisation of immigration enforcement over victims' wellbeing. It describes how fear of immigration consequences currently acts as a major barrier to reporting and seeking help when migrant workers face labour abuses and exploitation. It also outlines how adopting secure reporting practices can help to protect victims, improve public trust (particularly among women and people from minority communities)

¹ Member Organisations: Latin American Womens' Rights Service (LEAG Chair); Focus on Labour Exploitation (Founder & Secretariat); British Red Cross; Bail for Immigration Detainees; East European Resource Centre; Kalayaan, Glass Door; Work Rights Centre; Unite the Union; & Kanlungan Filipino Consortium. For more information, see: <https://www.labourexploitation.org/about-us/labour-exploitation-advisory-group-leag>

and allow police to prioritise action against perpetrators and protection of victims.

2. This submission responds to Questions 2, 3,4 & 6 of the Call for Evidence.

Prioritising Victims' Wellbeing

3. As recognised by the Home Office, victims must be '*treated first and foremost as victims*' regardless of their immigration status.² Protecting victims and bringing perpetrators of abuse and exploitation to justice should be prioritised over immigration enforcement. This point was raised in the 2018 super complaint brought by Liberty and Southall Black Sisters, submitted against both the National Police Chiefs Council (NPCC) and the Home Office. The complaint challenged the harmful practice where police share victim and witness data with the Home Office for immigration enforcement purposes and was grounded in a long-recognised concern that prioritising immigration enforcement over safeguarding puts victims and witnesses at risk, causes serious distress and is wholly counterproductive to the prevention of crime.
4. The findings of the super complaint investigation concluded that data sharing arrangements are significantly harming not only victims of crime but also the public interest, as crimes are not reported and therefore remain unpunished. The response recommended '*establishing safe reporting pathways, informed by the realities of victims' experiences, that reflect existing laws on everyone's right to data protection.*'³
5. Secure reporting has been similarly called for by other bodies and officials, such as the House of Commons Justice Committee who recently called for the inclusion of secure reporting measures in the

² Home Office, (2021) 'Guidance - Review of data sharing: migrant victims and witnesses of crime,' para. 18

³ <https://www.gov.uk/government/publications/police-data-sharing-for-immigration-purposes-a-super-complaint>.

Victims Bill,⁴ the Victims' Commissioner for England and Wales,⁵ the Domestic Abuse Commissioner,⁶ and the Independent Victims Commissioner for London.⁷

Impacts on Victims

6. Where migrants do not have secure immigration status, they will often feel unable to report instances of abuse and exploitation to the police (or other authorities, such as labour market enforcement) due to the fear that authorities will prioritise their immigration status over the crimes that they have faced or wellbeing. This acts to heighten their vulnerability, with abusers able to take advantage of this dynamic, and act with impunity. Ultimately, as victims refuse to come forward, the police are unable to prevent and address serious crime, like labour exploitation, without access to the intelligence needed to identify and prosecute perpetrators. Where immigration enforcement is prioritised, migrant victims of crime are unable to avail of safety and justice, and offenders are able to continue to drive others into exploitation. This undermines public safety as a whole. When a victim is arrested, detained or removed on the back of the police sharing their insecure migration status with immigration enforcement, the message that is being sent out to other migrants is that they are not safe to report their abuse.

⁴ <https://committees.parliament.uk/publications/28831/documents/174248/default/>, p.9.

⁵ <https://victimscommissioner.org.uk/news/victims-commissioner-welcomes-new-hmicfrs-report-recommending-immediate-action-to-ensure-vulnerable-migrant-victims-of-crime-can-confidently-report-to-police/>.

⁶ <https://domesticabusecommissioner.uk/wp-content/uploads/2021/10/Safety-Before-Status-Report-2021.pdf>.

⁷ <https://www.london.gov.uk/publications/claire-waxman-victims-bill-consultation-response>.

“When you are undocumented you are forced to choose between many impossible choices. You have to choose between letting your employer steal away half your wages or keeping your children fed. You have to choose to either stay with a violent man or choose to sleep on the street. You have to choose between being robbed because they know you are undocumented or being raided by the immigration officers. Your life becomes a series of impossible choices. You just have to choose the one that makes you sleep a little bit better at night.”

*Angélica, Venezuela*⁸

“I would raise a complaint if I was protected in some way against deportation.”

*Renata, Brazil*⁹

7. The organisation Imkaan has previously reported that more than 90% of abused women with insecure immigration status in the UK had their abusers use the threat of their removal from the UK to dissuade them from reporting their abuse.¹⁰ These findings have been supported by the Step Up Migrant Women campaign, which identified fear of removal from the UK as the main factor which prevented women from reporting to the police.¹¹
8. These very real concerns around detention and removal create one of the primary barriers to reporting issues at work, with workers concerned that they will be detained, stripped of their source of income and separated from their families and communities.¹² Even if

⁸ <https://www.labourexploitation.org/publications/preventing-and-addressing-abuse-and-exploitation-guide-police-and-labour-inspectors>, p.9.

⁹ *Ibid*, p.11.

¹⁰ Thiara, Ravi K. and Sumanta Roy (2012), ‘Vital Statistics 2: Key findings report on Black, Minority Ethnic and Refugee Women’s and Children’s experiences of gender-based violence.’ London: Imkaan.

¹¹ <https://stepupmigrantwomenuk.files.wordpress.com/2019/05/the-right-to-be-believed-full-version-updated.pdf>.

¹² Crépeau, François and Bethany Hastie. 2015. “The Case for ‘Firewall’ Protections for Irregular Migrants: Safe-guarding Fundamental Rights.” *European Journal of Migration and Law* 2-3: 157-183; Labour Exploitation Advisory Group and Focus on Labour Exploitation. 2016. *Labour compliance to exploitation and the abuses in between*. London: Labour Exploitation Advisory Group and Focus on Labour Exploitation; European Union Agency for Fundamental Rights. 2018. *Protecting migrant workers*

the threat is not explicitly made by an unscrupulous employer, hostile environment policies and immigration enforcement-based approaches create a degree of societal coercion that causes migrant workers to feel unable to report crime. Research completed by the European Union Agency for Fundamental Rights in eight European countries, including the UK, reported that migrant workers with insecure immigration status viewed some degree of exploitation as unavoidable. In this study migrant workers highlighted their belief that the police were more concerned about their immigration status than their experience of exploitation.¹³

9. Workers with regular immigration status may refuse to report abuse or exploitation out of a real or perceived fear that reporting could put their jobs at risk and negatively affect their visas. Even British nationals may fear that reporting issues at work could result in their colleagues, friends and family being vulnerable to immigration enforcement action. This also extends to the wider public, with a 2019 University of Nottingham study finding that the British public are hesitant to report suspected instances of modern slavery out of a concern that it may lead to negative immigration consequences for victims due to the police's perceived close relationship with immigration enforcement authorities.¹⁴ Such dynamics impede society's ability to counter trafficking more generally.

10. Police forces in the UK have also been known to regularly invite immigration enforcement authorities to operations aimed at identifying modern slavery offences. This creates a tension where two conflicting objectives clash: identifying and supporting victims of abuse and exploitation, and immigration enforcement. Where joint-operations take place, migrants are unable to distinguish between agencies focused on immigration enforcement and those whose primary objective is to support them. Without a clear separation between immigration and law enforcement, even where the police do

from exploitation in the EU: boosting workplace inspections. Vienna: European Union Agency for Fundamental Rights; Labour Exploitation Advisory Group and Focus on Labour Exploitation. 2020. Opportunity Knocks: Improving responses to labour exploitation with secure reporting. London: Labour Exploitation Advisory Group and Focus on Labour Exploitation.

¹³ European Union Agency for Fundamental Rights. 2019. Protecting migrant workers from exploitation in the EU: workers' perspectives. Vienna: European Union Agency for Fundamental Rights.

¹⁴ Birks, & Gardner. 2019. "Introducing the Slave Next Door." *Anti-trafficking Review* 13: 66-81.

not conduct immigration checks themselves, migrants remain unsure as to whether they can trust police officers and will not be penalised for reporting abuse and exploitation then, or at a later stage, when they are ready to disclose. This will have a particular impact on women facing domestic violence and minoritised communities in the UK and their trust in the police, thereby hampering law enforcement's ability to identify and support those who have experienced abuse and exploitation.

Immigration Enforcement Migrants Victim Protocol

11. The Government's 2021 review, which responded to the super complaint's findings and the investigation report, recognised that data sharing for immigration enforcement can be a contributing factor to victims not reporting crime, and that exploiters and perpetrators '*often use the victim's immigration status to exert fear or control.*' However, their suggested Immigration Enforcement Migrant Victims Protocol (IEMVP), currently being developed, fails to address concerns and presents a measure that can only act to further undermine trust and cooperation. Organisations supporting migrant victims and witnesses of crime hold that the IEMVP fails to address the need for victims or witnesses to feel safe to report, nor concerns that they will not be considered victims or that their immigration status will be prioritised.¹⁵ The proposed IEMVP is a wholly unsuitable alternative to secure reporting, and does not address the concerns raised by the anti-trafficking sector, as all migrant victims' data will be shared, only the enforcement aspect will be delayed.

12. The IEMVP will only apply whilst criminal investigations and proceedings are ongoing, and while victims are being supported. LEAG members working directly with victims and survivors have highlighted that police investigations are dropped quickly in the majority of cases with few progressing beyond an initial interview

¹⁵ Joint response to the "Home Office and Police data-sharing arrangements on migrant victims and witnesses of crime with insecure immigration status." Available at: <https://www.labourexploitation.org/publications/joint-response-%E2%80%99Chome-office-and-police-datasharing-arrangements-migrant-victims-and>.

with the victim.¹⁶ The Immigration Enforcement Victims Protocol maintains the practice of data sharing, leaving victims and witnesses with insecure or uncertain immigration status fearful of reporting a crime or seeking assistance from authorities. As such, the concerns raised in the super-complaint and investigation have not been addressed. Ultimately, the IEMVP fails to respect the Super Complaint findings and recommendations and best-practice in safeguarding and victim support, as well as all evidence from the sector.

13. We strongly dispute the Home Office's claim that Immigration Enforcement has any safeguarding role, as well as the assertion that data-sharing as proposed within the IEMVP has a safeguarding function. We remain highly concerned about the lack of recognition of the conflict of interest that lies at the heart of the suggestion that Immigration Enforcement can perform a contradictory function that involves pursuing enforcement action against migrant victims and witnesses of crime, whilst at the same time seeking to 'safeguard' them. It was precisely this contradiction that led to the finding from the super-complaint investigation that data-sharing between the police and Immigration Enforcement causes 'significant public harm.' Prioritising immigration enforcement undermines safeguarding and leaves victims vulnerable to continued exploitation. As organisations supporting migrant victims and witnesses of crime, we reject this protocol because we know this approach will not inspire, let alone enhance, victims' confidence in reporting a crime. On the contrary, we maintain that the active involvement of Immigration Enforcement will have a detrimental effect on victims and witnesses with insecure or uncertain immigration status, leaving them unprotected. Secure reporting policies are necessary to address this issue. Where secure reporting practices are in place, labour market enforcement authority and police referrals would also enable victims to access vital culturally and linguistically appropriate support from specialist organisations. Moreover, it would help them to receive legal advice to regularise

¹⁶ See for example: <https://www.theguardian.com/society/2021/may/23/fewer-than-one-in-60-cases-lead-to-charge-in-england-and-wales>; <https://www.bbc.co.uk/news/uk-politics-58910802>.

their status and access the holistic support they need from those who can provide safe spaces and have expertise in safeguarding.¹⁷

14. Similar temporary reporting procedures have led to disappointing results, demonstrating the need for a complete firewall. Following the Grenfell tower fire in 2017, the Government offered undocumented migrants affected by the fire a 12-month period of limited leave to remain which would allow them to access support. A very limited number of victims came forward to claim support, with undocumented migrants relying on the support of charities instead for fear of their data being shared and the risk of detention and deportation beyond the 12-month period.¹⁸ In the absence of victims coming forward, crucial information could not be obtained during the investigation. To counter this, the Home Office extended Indefinite Leave to Remain to individuals who passed security and criminality checks. This example highlights how time-limited protections do not instill confidence and trust and continue to create risks for victims coming forward about their abuse and exploitation.

Case Study

Earlier this year, Lucía sought support from LAWRS as she was a victim of domestic abuse. She was made undocumented as a result of this abuse and, having ended the relationship, she was receiving threats and being stalked by her perpetrator, which led to her developing suicidal thoughts.

As the risk increased, her caseworker advised and supported her to report the perpetrator to the police. Lucía was afraid due to her immigration status but accepted. When the police came to her home, no interpreter was provided despite having asked for one. The police undermined her case, told her she was not a victim of crime, and blamed her for having met her former partner online. She was not provided with a crime reference number. When they asked for ID and saw that her visa had expired, they called Immigration Enforcement in front of her.

While her perpetrator continued to harass her, Lucía received a letter from

¹⁷ <https://www.labourexploitation.org/publications/joint-response-%E2%80%99Chome-office-and-police-data-sharing-arrangements-migrant-victims-and>.

¹⁸ <https://www.labourexploitation.org/publications/preventing-and-addressing-abuse-and-exploitation-guide-police-and-labour-inspectors>, p.15.

Immigration Enforcement. This exacerbated her fear, and made her disengage from LAWRS' support altogether, despite being at risk. She told her caseworker she did not believe there would be a way to obtain any justice and that she felt she was treated as a criminal.¹⁹

Policy in Practice

“Equal rights without discrimination. This is what it is all about. [...] People were afraid of the police, they were afraid of being deported if they reported a crime. [...] We wanted to help them, and by helping them we were able to learn more about their situation - we had the opportunity to get intel on human trafficking, abuse and all kind of other crimes. But to do this, we had to build trust. [...] The best result to me, as a police officer, is that people trust the police, that we are seen as honest, fair, that we are seen as the police for everyone and not only for people who have [immigration] papers.”

Amsterdam Police senior police officer²⁰

15. Secure reporting has been tried and tested by police abroad, achieving positive outcomes, such as access to better intelligence that facilitated the identification of perpetrators of crimes like domestic abuse and human trafficking, and prevented abuse from developing into more severe cases with potentially fatal consequences. As demonstrated by practice and guidance around the world, this is a workable and realistic solution.²¹
16. Where secure reporting practices are in place, police referrals would also enable victims to access vital culturally and linguistically appropriate support from specialist organisations. Moreover, it would help them to receive legal advice to regularise their status and access

¹⁹ <https://www.newstatesman.com/society/2022/06/police-refer-crime-victims-deportation-home-office>

²⁰ *Ibid.*, p.16.

²¹ <https://www.labourexploitation.org/publications/preventing-and-addressing-abuse-and-exploitation-guide-police-and-labour-inspectors>.

the holistic support they need from those who can provide safe spaces and have expertise in safeguarding.

16. When secure reporting pathways do not exist for victims, the provision of support and protection will be limited by increased distrust of authorities, victims not coming forward to report crimes, reduced identification of victims and perpetrators, and ultimately, the continued empowerment of exploiters who have an additional weapon in their arsenal to coerce victims. As set out in the explanatory report to Council of Europe Convention on Action against Trafficking in Human Beings 2005 (ECAT), *'the greater victims' confidence that their rights and interests are protected, the better the information they will give.'*²²

For more information on the issues contained in this inquiry response, please contact: peter.wieltschnig@labourexploitation.org

²² Explanatory Report to the Council of Europe Convention on Action against Trafficking in Human Beings – CETS 197 – Action against Trafficking in Human Beings, para. 181.