The Protection and Rights of Black and Minority Ethnic Women Experiencing Domestic Violence in Northern Ireland

Prepared for Submission to CEDAW
June 2013 NICEM Report
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Foreword

“Gender-based violence… impairs or nullifies the enjoyment by women of human rights and fundamental freedoms”¹

The Northern Ireland Council for Ethnic Minorities (NICEM) is an independent non-governmental organisation. As an umbrella organisation² we represent the views and interests of black and minority ethnic (BME) communities.³ Our vision is of a society where equality and diversity are respected, valued and embraced, a society free from all forms of racism, sectarianism, discrimination and social exclusion, where human rights are guaranteed.

NICEM are delighted to be able to produce this significant piece of work prior to the 2013 examination of the UK government by the United Nations (UN) Committee on the Elimination of Discrimination Against Women (CEDAW) on the 17th July 2013. This hugely important and timely piece of research will assist in the elimination of discrimination against ethnic minority women in Northern Ireland by informing policy approaches whilst empowering ethnic minority women through facilitating a better understanding of issues of domestic violence. Whilst this is a significant advancement it is important to acknowledge that this scoping report was merely able to scratch the surface on what we know to be an under researched area, it highlights a need for further victim centred in-depth research in to all forms of violence against black and minority ethnic women in Northern Ireland.

This research has been produced as part of NICEM’s Strategic Advocacy Project in conjunction with funding received from the Office of the First Minister and Deputy First Minister’s Minority Ethnic Development Fund. NICEM would like to thank all those who were involved in making this work possible including all the ethnic minority women who participated in focus groups and one on one interviews, the staff of the agencies and organisations who contributed to interviews and shared information, the researchers Professor Monica McWilliams and Priyamvada Yarnell and the NICEM staff team and interns.

¹ General Recommendation no. 19, The UN Committee on the Elimination of Discrimination Against Women
² Currently we have 27 affiliated BME groups as full members. This composition is representative of the majority of BME communities in Northern Ireland. Many of these organisations operate on an entirely voluntary basis.
³ In this document “Black and Minority Ethnic Communities” or “Minority Ethnic Groups” or “Ethnic Minority” has an inclusive meaning to unite all minority communities. It refers to settled ethnic minorities (including Travellers, Roma and Gypsy), settled religious minorities, migrants (EU and non-EU), asylum seekers and refugees and people of other immigration status.
This research forms part of a number of key actions in light of the forthcoming examination of the UK by the Committee on the Elimination of All forms of Discrimination Against Women. Components to this initiative include two pieces of research; this report and a report in to the experiences of ethnic minority women in Northern Ireland based on a quantitative analysis of over 450 survey responses. The need for this research has been informed by a series of community-based seminars and workshops held with ethnic minority women in the period 2012-2013.

Informed by these research findings and NICEM’s broader policy, research, development and advocacy work in the intervening period from the 2008 hearing until now, NICEM has produced a shadow report to the Committee on the Elimination of Discrimination Against Women. The findings of this collective work will be presented to the Committee at the hearing in Geneva in July 2013 by a delegation of 5 ethnic minority women. As a result of this collective body of work a BME women’s network will be established in Northern Ireland, the objective of which will be to develop the capacity of BME women so that they can assist and support their communities in accessing services, furthering their human rights and developing community based leadership.

Helena Macormac

Strategic Advocacy Project Manager
Abstract

This report examines the support sought by and provided to Black and Minority Ethnic (BME) women, including immigrant women, in the context of domestic violence in Northern Ireland. It was undertaken as a scoping study and forms part of a submission to the UN Committee on the Elimination of Discrimination Against Women (CEDAW).

Northern Ireland has experienced an increase in migration, particularly from the European Economic Area with the most recent census showing an increase in the ‘non-national’ population over the past ten years - from 1.8% (2001) to 4.5% (2011). This figure, although increasing, is an under-representation of the proportion of those residing in Northern Ireland who form part of the BME population as it does not include those who hold British or Irish nationality.

The findings reveal the challenges faced by BME women such as isolation, language barriers, unfamiliarity with laws and services, and institutional racism. These factors act as barriers in the help-seeking process and increase women’s vulnerability to domestic violence. Some of the most compelling findings are the ways in which immigration law and policy and the benefits system fail to address the needs of immigrant women who experience domestic violence in Northern Ireland.

The report highlights the failings in terms of the UK’s human rights obligations and makes a number of recommendations to CEDAW as part of its periodic examination in July 2013.

Following its publication, the CEDAW Committee requested the UK government to address, in particular, the report’s findings in relation to the application of the ‘domestic violence’ rule.

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The authors wish to acknowledge and thank Molly Churchill for her valuable contribution to the project and the input into this paper. Molly is an exchange intern at the Transitional Justice Institute from McGill University, Canada.
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Introduction

This report examines the experiences of black and minority ethnic (BME) women in Northern Ireland in relation to domestic violence and the protection and rights afforded to them as required by Articles 2, 3, 5, 12 and 13 of the Convention on the Elimination of all forms of Discrimination Against Women (CEDAW) and General Recommendations 12, 24 and 19. Northern Ireland has changed dramatically since the peace agreement in 1998 and more recently, since 2004, with the increase in immigration from the European Economic Area (EEA) countries. As the census shows, the ‘non-national’ population of Northern Ireland has rapidly increased from 1.8% in 2001 to 4.5% in 2011. This figure does not represent BME people who hold British or Irish nationality, so it is an under-representation of the proportion of those residing in Northern Ireland who are part of the BME population.

In the study undertaken here, the focus is specifically on the support sought and provided in the context of BME women who have experienced domestic violence whilst residing in Northern Ireland. It is also the case that, despite increased migration to Northern Ireland, the BME population remains fragmented with different groups often settling in different parts of the country, though the majority of BME women live in urban areas. The focus of this scoping paper has been on the extent to which an equality and human rights based framework for BME women experiencing domestic violence applies to Northern Ireland. The paper makes a number of recommendations to CEDAW based on the conclusion to this issue.

4 If due to accessibility requirements if you would like to access this report in a different format, please contact the NICEM office and resource permitting we will do our best to accommodate you
5 For the purposes of this report the term BME is used throughout and encompasses immigrants, migrants, asylum-seekers and refugees who may also be Caucasian.
6 For the purposes of this report, research was conducted over a six-week period and included interviews with 17 individuals from 15 different organisations as well as with five representatives of BME communities. We also met with representatives from the Police Service of Northern Ireland and the Public Prosecution Service and corresponded with other statutory bodies, such as the Department of Health and Social Services and the Housing Executive in order to collect relevant data for the purposes of this submission.
7 ‘Non-national’ meaning those born outside the UK and the Republic of Ireland who do not hold either British or Irish citizenship, 2001 Census available at: 
8 The proportion of Black and Minority Ethnic (in-line with the UK wide 2011 census is ‘Black’, ‘Asian’, ‘Mixed’ and Irish Travellers) is 1.8%, link as above, although it is recognised that this may also encompass non-nationals residing in Northern Ireland also.
9 This report is part of a scoping study aiming to identify the particular barriers and issues that face BME women who experience domestic violence whilst living in Northern Ireland.
1. Equality Monitoring

It is widely acknowledged that BME victims of domestic violence are particularly vulnerable and, as such, require special protection to enable them to come forward to disclose details of their abusive partners in a safe environment.\textsuperscript{10} For that reason, data needs to be collected on BME victims engaging with, or providing evidence to, the Criminal Justice System (CJS) so that the various agencies know the extent to which they need to direct their resources towards those who are particularly vulnerable. Increasing victim confidence in the CJS generally, and more specifically in the Public Prosecution Service for Northern Ireland (PPS), remains a challenge for service providers everywhere. This may be accentuated in the context of Northern Ireland, given the legacy of the conflict and the reluctance of some communities to seek help from ‘outsiders’\textsuperscript{11}. For this reason systematic and consistent data collection for equality monitoring and for other purposes needs to be in place.

Equality monitoring was originally introduced into Northern Ireland in the seventies to address the issue of fair employment and monitoring of non-discriminatory service provision, amongst other concerns. With the subsequent introduction of Section 75 of the Northern Ireland Act (1998), statutory authorities designated as public bodies were mandated to collect data on a more extensive range of grounds. Ethnicity, political identity, age, marital status, disability, dependents and sexual orientation were added to the data collection on religion and gender.

What this research found was that, unlike England and Wales,\textsuperscript{12} some public bodies, most noticeably the Public Prosecution Service (PPS), were not recording statistics on religious or ethnic background since they were not obliged\textsuperscript{13} to do so under the Northern Ireland Act. The PPS expressed its concern that collecting such data could lead to questions of whether more Catholics than Protestants were prosecuted or vice versa. However this also meant that there was no data on the number of prosecutions of those from BME groups. The lack of data in this area means that there


\textsuperscript{12} Race Relations Act 1976, Schedule 1A and the Equality Act 2010.

\textsuperscript{13} Northern Ireland Act 1998, s.75 (4A)
are no statistics currently being collected on prosecutions for domestic violence related offences committed by BME people in Northern Ireland. The absence of comparative analysis not only obscures issues of equality, it has several other consequences such as a lack of attention to offences related to domestic and sexual violence committed by BME individuals and a dearth of knowledge on the current needs of their victims. Addressing these gaps should become a priority for the service. To do this effectively, the PPS should be brought into line with other ‘Section 75’ public bodies so as to meet the requirements for equality monitoring as specified in the legislation for in Northern Ireland. The Director of the PPS should request that statistics be recorded on the ethnicity of offenders and victims of domestic and sexual violence related offences and the extent to which special measures have been put in place to assist the prosecution of these cases.14

The Northern Ireland Housing Executive statistics show that in 2004 there were 611 individuals (7% of all cases identified as homeless) accepted for rehousing as a result of domestic violence. This compares to the most recent figures where 829 households (or 9% of all homeless cases were experiencing domestic violence in 2010) showing an increase of 2% up to 2010. Given that the data is not disaggregated for ethnicity or nationality, this study could not show the proportion of BME cases included in these numbers, nor do we know if this is an increasing trend. The additional 968 cases of marital breakdown/separation cases may also obscure households experiencing intimate partner violence since some BME women in abusive relationships may be reluctant to state this as a cause of their homelessness.

The absence of ethnic-specific data in public sector agencies contrasts with the good practice exhibited by the voluntary sector organisation, Women’s Aid. This organisation is the largest NGO support provider offering accommodation and support services to victims of domestic violence, and routinely collects data on BME groupings. It is also able to show patterns and trends over time for BME women seeking its support.15 This is the type of data required for public authorities to make decisions on how their funds are being used and whether they are

14 The Director of Public Prosecution has indicated to one of the researchers that he would seek to have this gap in data collection remedied.
15 For example, Women’s Aid Annual Report 2011 – 2012 shows an increase of 77 calls from BME women to their domestic violence helpline over the previous year, available at http://www.womensaidni.org/resources/annual-reports/
being directed towards those most in need. Where the data is available for BME people, it means that organisations working in this field can undertake effective evaluations on a regular basis and assess what changes need to be made for preventative and other programmes on domestic violence.

Cultural norms and political factors can play a part in deciding what is named as domestic violence and what gets counted as ‘ordinary’ criminal violence. The counting is not incidental and not merely about adding a particular label, but is central to what issues gain elevated status as serious human rights violations, what kinds of harms count for the purposes of intervention, and what kinds of violations will be remedied by criminal accountability. What this study has been able to show is that public bodies in Northern Ireland are falling short of the requirement outlined by the Committee’s General Recommendation 19, para. 24(c).

Recently the Sexual Assault Referral Centre (SARC) opened in Antrim (approximately 15 miles from Belfast) providing specialist medical attention, specific support and specialized evidence gathering for victims of sexual violence. The SARC has an annual capacity for 500 examinations. Given the findings of this report, the SARC should be resourced to develop a template for recording data and maintaining comprehensive statistics on the ethnic and national background of its cases. In doing so it should liaise with the PSNI and other bodies to ensure consistency across the statutory sector.

2. Barriers confronting BME women

Throughout this study, interviewees stated that the number of BME women in Northern Ireland experiencing physical and sexual violence was widely under-reported. As the barriers outlined below show, it was generally acknowledged that BME women in Northern Ireland are particularly isolated and that those experiencing domestic violence faced particular vulnerabilities preventing them from seeking help.

17 “States parties should encourage the compilation of statistics and research on the extent, causes and effects of violence, and on the effectiveness of measures to prevent and deal with violence.” General Recommendation 19, para. 24(c), 1999.
The barriers include the following:

- Structural failings leading to financial dependence on abusive partners and no recourse to public funds;
- Dependence of some BME women on male partners for their immigration status and/or official leave to remain in the UK;
- Lack of knowledge of their own legal entitlements in the UK;
- An absence of BME community infrastructure to provide practical support and assistance;
- Lack of interpretation at the first point of contact for domestic violence, despite the requirement on public agencies to provide interpretation where necessary;
- Reluctance to involve Social Services due to fear of children being removed;
- Community pressure to remain in the family home and the stigma and shame attached to leaving the partner;
- Reluctance of other family members to support the women in this process;
- Reluctance to seek help from public authorities or ‘outside’ support agencies due to lack of culturally sensitive services;
- Internalizing religion and cultural beliefs that view domestic violence as permissible rather than criminal;
- Legacy of poor police response from previous experience in their home country, and on occasion, in Northern Ireland.

For example, most of the practitioners who were interviewed for this study commented on the fact that BME women were often living in a foreign country having left their relatives and social networks; had little English; and that often the only person they knew in Northern Ireland was the abuser himself. One example given to us was of a woman, who had moved here at 21 years of age for an arranged marriage with a Northern Irish national and who had had five children in the last five years. The respondent, who was this woman’s only friend, reflected on her isolation, noting “every time I’ve been there, I just think – did she really want five children in five years? She never goes out,”\(^{18}\) Others noted the isolation of women who had come to Northern Ireland to accompany their husbands, or later joined them here.

\(^{18}\) Interview with a BME woman. This example raises concerns that young women moving to Northern Ireland to join a husband may not have access to family planning or other adequate support services following the birth of children.
Respondents also noted that, irrespective of whether the husband was a UK or Irish citizen or not, some BME women believed they were ‘tied into these relationships’ and felt particularly alone as a consequence.

Women's social and economic dependency limits a victim’s decision to leave an abusive relationship. Structural issues regarding immigration and access to public funds serve to reinforce these BME women’s economic dependency on their partner, thereby reducing the woman’s potential to leave. These women are even more dependent on their husband by their lack of access to work and it is recognised that this dependency, together with support networks evaporating, can exaggerate the perpetrator’s sense of entitlement and proprietary behaviour. This can intensify the brutality, repetitiveness and likelihood of physical and sexual violence, particularly where the victim becomes increasingly isolated and the abusive partner purposively ignores the domestic legal accountability mechanisms for his behaviour.\textsuperscript{19}

Respondents from Women’s Aid and a community based women’s centre also highlighted the isolation of some women who are abused by their asylum-seeking husbands venting their frustration at the 'powerlessness' of their new situation at their female partners.\textsuperscript{20} One respondent reflected on the vulnerability of these women, afraid of jeopardizing their asylum claim if they reach out for help: “They will stay in [an abusive] relationship because they’re looking for [refugee] status as a family. The women are stuck in the relationship because they have to show the Home Office that they are a family unit.”

A further barrier that deters women in this situation from leaving an abusive partner is that she will usually have no recourse to public funds should she leave. This double bind in which the UK’s “no recourse to public funds” rule places women with insecure immigration status is outlined below. In 2008, the Committee urged the UK to “intensify its efforts to prevent and eliminate discrimination against ethnic and minority women” and to be “proactive in its measures and to raise awareness of the availability of social services and legal remedies.”\textsuperscript{21}

This research study shows that many of the above obstacles are still preventing victims from

\begin{footnotes}
\item[20] These reports are based on discussions with one of the authors (Monica McWilliams) and various members of staff at Women’s Aid.
\item[21] Concluding Observation CEDAW/C/UK/CO/6, para. 294.
\end{footnotes}
coming forward to seek help and protection. As evidenced by the cases reported below, ethnic minority women who did manage to surmount these initial barriers and reach out for help were often let down by the very system to which they turned.

3. Protection Denied - BME women who have come forward

3. (a) Language barriers
Under the Race Relations (Northern Ireland) Order 1997, State bodies are obliged to provide services without discrimination on the grounds of race or ethnicity. This applies to the provision of interpreters to ensure that services are available to individuals in need who do not speak English. The relevant State bodies, such as Health and Social Services Trusts, the Criminal Justice System (CJS) - that is the Police Service of Northern Ireland and Public Prosecution Service, the Housing Executive and Social Security Agency have access to interpreters in Northern Ireland. However, the study undertaken here showed that there was a current lack of certain language interpreters for public sector use; also concerns were raised that in some instances inappropriate interpretation had been provided due to a lack of training of interpreters working with social services. One respondent, working for an NGO reported an incident where her colleague (whose first language was that of the woman whose child had been taken into care after violence in the family house) had noted that the interpreter had not translated accurately what the woman had said and she had intervened to ensure details were recorded accurately. In another case, we were informed that an interpreter had acted for both the victim and the perpetrator, raising concerns on how accurate a record was being kept in relation to the domestic violence incident. Acting for both parties may have the potential to create a conflict of interest for interpreters, most especially when they have not been adequately trained on the nuances of abusive relationships. The lack of training also arises where the interpreter may be unaware of his/her identification with specific normative/customary values relating to women’s role in the household or her status in a martial relationship. This is an issue that particularly arises in the context of domestic violence and is prioritised in training programmes given its implications for help providers’ responses to abused women, but the extent to which this is included in interpreters’ training requires further exploration.
The Health and Social Services Trusts

The Health and Social Services Trusts have an interpreting service with a Code of Practice and guidelines on booking interpreters for staff and practitioners. It has been reported that the Health and Social Care Services are in the progress of training 80 of their 300 interpreters to become a specialised group for domestic violence cases. This is a welcome development.

The issue of language difficulties arose in relation to the provision of counselling services. These were routinely offered by Health and Social Services to victims of domestic violence but a number of organisations raised concerns that this had not been available to BME victims due to language difficulties noted above. The standards set out in Article 12, CEDAW, regarding access to health care and in General Recommendation 24 should be adhered to. **Funding for interpretation should be ring fenced and relevant government authorities should plan their budgets to ensure BME women who need this service are enabled to access it.**

Social Security Agency

It was also the case that a number of staff within the Social Security Agency were unaware that interpreting services are available. Staff from NGOs also raised concerns that there was an over-reliance on their organisations to act as interpreters rather than the statutory bodies accessing their own interpreting services.

The Criminal Justice System (CJS)

Issues of interpretation did not arise in regards to the policing or prosecution of domestic violence cases. Police provide training to the newly recruited interpreters on the legal duties and the sensitivity required when engaging with victims of domestic abuse and sexual violence. This good practice regarding training is welcomed but practical inconsistencies have been noted. If interpretation were needed by the CJS and simultaneously by the health service, interpreters working for the CJS and providing freelance interpretation could

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22 BHSCT Health & Social Inequalities Unit “Interpreting and Domestic Violence Northern Ireland Health and Social Care Interpreting Service”. This process began in April 2011 and 80 interpreters are expected to be trained by April 2014.
potentially end up working on the same domestic violence case for both services. This happens infrequently as the majority of professional interpreters know that they could jeopardise the good practice in this field by engaging in this way, those working in the criminal justice system have been explicitly informed of this in their training.

Voluntary Organisations

Women’s Aid has a 24-hour Domestic Abuse Helpline and has funding to use language interpreters\textsuperscript{23} where necessary over the phone. Women’s Aid provides a number of valuable resources such as counselling and confidence building for victims of domestic violence and substance abuse. These services are crucial as they enable women to rebuild their lives after suffering severe physical stress and/or psychological trauma. Women’s Aid currently lacks the funds to provide face-to-face interpreters to extend the support to BME women whose first language is not English. Respondents also noted that increased staff are needed to help victims access these support services and to raise awareness amongst BME women on the provision of services currently available. In 2008 the Committee urged the UK to “provide increased and sustained funding for NGOs … involved in the area of women’s rights.” Funds should be ring-fenced to ensure that support services for a BME organisation working on domestic violence could build on the example of the ethnic minority led Southall Black Sisters in London, developing a local grassroots organisation into a leading BME organisation at the forefront of protecting and promoting BME women’s rights.

3(b) Institutional Racism

In July 2010, the Northern Ireland Executive published its programme for Cohesion, Sharing and Integration (CSI). The main focus of the policy was to tackle sectarianism, racism and hate crimes and to promote cohesion, sharing and integration for all sections of society. Similarly, the aim of its Race Relations Policies is to ensure that all Black and Minority Ethnic (BME) people in Northern Ireland can enjoy full and fair access to services. In the context of these existing policies, we outline here some of the concerns showing the extent to which the government is falling behind in these commitments.

\textsuperscript{23} Women’s Aid use the interpreting service ‘Language Line’ which enables a three-way call between the caller, the Women’s Aid helpline staff and the interpreter. Women’s Aid reported their satisfaction with their services.
Respondents highlighted incidents which displayed a pattern of behaviour reflecting institutional racism, defined as: “a collective failure of an organisation to provide an appropriate and professional service to people because of their colour, culture or ethnic origin. It can be seen or detected in processes, attitudes and behaviour which amount to discrimination through unwitting prejudice, ignorance and racist stereotyping which disadvantage minority ethnic people.”

An NGO adviser on migrants’ rights, reflecting on her experience over the previous five years, opined that one public authority in particular exhibited racist stereotyping in evaluating cases. She offered evidence that, rather than concentrating on individual circumstances, staff focused primarily on ethnic and national background. She quoted responses given to her that reflected this stereotyping such as “they’re not from here so they don’t really know any better” or “that’s just part of their culture.” This raises concerns about the type of normative values held by staff working for public bodies in Northern Ireland and again highlights the need for diversity training, as well as training on domestic violence, so as to challenge prejudicial attitudes about BME cases of domestic violence as well as the judgemental opinions held by staff in relation to this behaviour.

A further disturbing characteristic of one statutory body appears to be a predisposition to deal with vulnerable BME women with no recourse to public funds, by sending them back to their country of origin. One such case involved an Eastern European woman who had been the victim of sexual violence by men known to her, and who was subsequently evicted from her public housing in response to a neighbour’s complaints about her behaviour. The woman sought and received support from an NGO for migrants. The advice worker for this organisation reported how a staff member, working in the local Housing Executive office, had expressed disappointment and surprise that the woman had not accepted an offer of the purchase of an airline ticket to facilitate her return ‘home’ to Eastern Europe. This case highlights the racism, and possible sexism, inherent in such a response.

A further case relates to a family with three children, who also had single tickets purchased for them by Social Services so that they too could return to their country of origin instead of

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24 The Macpherson report (1999) provided a definition of institutional racism following the racist murder of a black teenager in London in 1993. As a result of the failure by police to respond appropriately to this incident and the fact that no person had been held to account, a public inquiry, chaired by Lord Macpherson, was launched in 1998.
an offer of public housing, which was what they required at that time. The mother in this case had been a victim of domestic violence by her former partner in her home country and did not wish to return. The advice worker for the NGO at which the woman sought refuge, on calling the Housing Executive, was asked by the local manager “could they not just go back home?” In contrast to the Social Services, this voluntary sector organisation provided the necessary funding until the family had found alternative accommodation. The respondent also noted that the tickets, which had been purchased but not used, could have potentially funded a hostel stay for the same period.

Another respondent for an NGO, offering advice on welfare benefits, stated that she had not seen a single case where her clients (all of whom were BME) had been awarded child benefits in the 21 days’ timeframe set out by Her Majesty’s Revenue and Customs (HMRC). She noted the extensive correspondence that was often exchanged with the agency and, despite the required details being provided, her clients’ child benefits did not come through until six or nine months later. Although there are general issues around delay for these benefits a number of correspondents expressed this same view, but noted that, without adequate monitoring by HMRC, these widely held beliefs could not be supported by statistical evidence.

Attitudes towards Roma migrants by some statutory agencies were highlighted as a major problem in this study as frequently noted by BME women themselves. BME women themselves reported poor community relations with the police were known to deter Roma women from coming forward to report incidents of abusive relationships. BME women reported cases where abusive male partners were being dealt with internally by the community rather than asking the police to respond. Utilising this type of ‘community justice’ raises concerns particularly in the context of Northern Ireland given that this was also common practice in predominantly Republican and Loyalist communities during the years of the conflict.

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25 In two separate interviews a Roma woman and another woman who is working with Roma women raised incidences of domestic violence, which had been dealt within the community. This was out of distrust of the police due to previous negative interactions with the police service.
3(c) Lack of communication and liaison between public authorities

Respondents in our study raised concerns with the lack of effective communication and coordination between different statutory bodies. One respondent who works at an NGO expressed frustration with the “banding back and forth” between different statutory bodies in cases involving women trying to leave abusive relationships. A clear example of the cost of failed communication between statutory bodies, and further evidence of the problem of lack of interpretation services, was provided by another respondent, who recounted an incident in which a BME woman experiencing domestic violence was advised by the Social Security Agency to claim child benefits as a single claimant in her own name. After following this advice, the woman was charged with making a fraudulent claim for £14,000 by HMRC, since the partner was still registered as living at the same address. The respondent referred to the appeal which is pending in relation to this case, and mentioned that she did not think this miscommunication would have occurred had Social Security Agency used an interpreter during its meetings with the woman.

Given these concerns, key initiatives of the current Tackling Domestic and Sexual Violence Action Plan (2012-2013), developed by the Department of Health, Social Services and Public Safety (DHSS&PS) was to engage with people from ‘hard to reach’ groups, including ethnic minorities.26 The researchers were informed that a sub group (comprising broad representation from a range of organisations) was established in 2011 and although an Action Plan of activities, to better engage with ‘hard to reach’ groups, was subsequently developed it has not, as yet, been taken forward. We would strongly urge that a BME specific group should become a priority for any future DHSSPS Action Plan so that issues facing this vulnerable group can be addressed adequately.

An important outcome of the Tackling Violence At Home Action Plan was the introduction of the Multi Agency Risk Assessment Conference (MARAC), a case conferencing multi agency approach established to respond to domestic violence. This was also an important

26 The “Tackling Violence at Home” strategy was published in October 2005 by the DHSS&PS. A sub-group on ‘hard to reach groups’ was formed by the DHSS&PS however many in the sub-group were dissatisfied with the overly broad groups deemed ‘hard to reach’ such as Men; People with disabilities, BME people, Lesbian, Gay and Bisexual and transgendered people’. A range of groups was identified with no ownership attached to the project by any group. The strategy can be found at http://www.dhsspsni.gov.uk/tackling_violence_strategy.pdf
development in relation to high-risk cases (which BME cases often are by the time the State becomes involved). The limited data showing the numbers of BME cases identified by the MARAC process points to a rising trend in these high-risk cases.27

Despite the Housing Executive’s much-needed support to the MARAC process through the provision of accommodation and advice services, the lack of information on BME cases means that the extent to which this support is directed at women from these backgrounds remains unknown. A more recent Housing Executive intervention within the MARAC process is the Sanctuary scheme option, which helps to maintain victims of domestic violence in their homes. One of the aims of the Housing Executive’s Homelessness Strategy is to assist all relevant agencies in achieving that goal, but again the problem arises in relation to the evaluation of responses and impact assessment, given the lack of communication between public authorities on the additional complexities associated with BME domestic violence cases.

The ‘Tackling Violence at Home’ Strategy, originally a five year strategy ending in 2010, has now been extended to 2014 in line with the ‘Tackling Sexual Violence and Abuse Strategy’. Although these strategies are now dated, the government decided to wait until 2014 so that a joint domestic and sexual violence strategy could be published. Given the findings of this study, we would urge that this new strategy pays increasing attention to the health and welfare concerns arising as a consequence of intimate partner violence. The strategy also needs to address the provision of more accurate data on the increase in demand for services responding to the needs of BME women living in Northern Ireland.28 Local Domestic Violence Partnerships established in each Trust should also be encouraged to disaggregate this information at the local level. Although we are aware that routine checks for domestic violence have been introduced for pregnant women at antenatal clinics, there is an absence of specific information in relation to BME.29 The DHSSPS should be required to retain data on the number of BME women who disclose incidents of domestic violence during their routine pregnancy checks. The introduction of the Independent Domestic Abuse Programme for convicted perpetrators of domestic violence should also be asked to

27 PSNI keep statistics for their monthly Steering Group Update, which includes a victim profile, one being ‘s.75 grouping: BME cases’. This is not publically available but was provided by the relevant staff in the PSNI.
28 See Appendix 2 of the Northern Ireland Housing Executive’s 2013 Homelessness Strategy, p29.
29 These routine checks are undertaken by midwives for all women attending ante-natal clinics so as to assess the risk of domestic violence during pregnancy. They are part of the initiatives introduced by the DHSSPS Regional Strategy. The identification rate is not as yet known.
retain information on those individuals who are referred to this programme whose partners are also BME.

3(d) Dysfunctional Social Security System

The functioning of the benefit system for BME (specifically non-nationals) families reinforces gender role stereotypes and puts women in a position of financial dependence, thereby contravening Articles 5 and 13 of CEDAW. A number of advisers reported to us the issue of child benefits usually being issued in the father’s name in BME families. It was surmised that this is done to speed up the processing time for the benefit: often the male partner has moved to Northern Ireland and started working before the family joins, and because he is more firmly settled here, it is easier to prove his entitlement to a benefit than it is to prove the entitlement of a woman who has more recently moved and may not be working.\(^{30}\) The result, however, is to leave the woman financially dependent on the man and to open the door to financial abuse.

In one case reported to the researchers, the man had begun to withhold food from his partner and child, and had stopped giving money for bus tickets to send the child to school. The woman had no independent source of income, and attempts to seek help through the Social Security Agency and the Housing Executive were in vain: Social Security said that because she was still under the same roof as her partner, she could not apply for Job Seekers Allowance, while the Housing Executive said she was ineligible for housing benefit because she was not a Job Seeker. Neither agency referred this woman to Women’s Aid, and instead left her to return to a home where she was being denied basic necessities. This demonstrates a failure by the statutory bodies to offer necessary information to a woman in a dangerous situation, and illustrates a narrow and rigid understanding by the statutory bodies of what their responsibilities entail. Fortunately this woman found an NGO advisor who referred her to Women’s Aid and helped her navigate the benefits system. Furthermore, while it is conceivable that a local national woman could face similar problems with the benefit system, the isolation specific to recently arrived BME women exacerbates what would be a difficult position for any woman: in this case, the woman had no network of family and friends here to

\(^{30}\) NICEM is aware that this trend is reversed in the case of Filipinos, predominantly women who come to Northern Ireland to work in the health sector.
turn to for support or offer her alternative shelter. As there were no rooms immediately available in Women’s Aid, this woman was forced to remain for a couple of weeks living with this abusive partner until a room became available.

An additional complication in many of these cases, as one respondent explained, is that “if the family splits, mom [usually] takes the kids, but he holds the benefit that’s assigned just for kids, and [which] opens the door for other benefits for help – so she has the kids, no work, and no money, and he’s got the benefits, no kids to feed, and no wife [with him].” It usually takes about six months for the transfer to take place so that the benefit is in the woman’s name. As the respondent noted, the question arises of what she is meant to do in the meantime. This same respondent highlighted the inadequacy of the system in responding to the needs of a woman who presents herself as a victim of domestic violence: staff in the Child Benefit Agency insist that before any transfer of benefits takes place they must, following their policy guidelines, seek the father’s permission to suspend his claim and give him thirty days to respond. The respondent noted that, despite the agency being officially informed that the mother was a victim of domestic violence, the agency insisted on maintaining this procedure. Again, what would be a difficult situation for any woman is intensified by the lack of support network experienced by many BME women, and can be compounded by other factors such as lack of comfort in English and insecure immigration status.

This pattern of BME women being denied adequate access to benefits, including family benefits, is a direct contravention of Article 12(a) of CEDAW. Furthermore, the Committee’s General Recommendation 19, paragraph 23, specifically acknowledges that a “lack of economic independence forces many women to stay in violent relationships.” Yet, the structure of the benefit system in Northern Ireland reinforces the economic dependence of immigrant women on men. This is even the case for women with no recourse to public funds.

3(e) ‘No Recourse to Public Funds’ (NRPF) and the Domestic Violence Rule

Spouses or partners of settled persons, spouses of students or temporary workers, people seeking asylum with their spouse or partner, people who have overstayed their visas, and
people who have entered without valid permission, have no recourse to public funds.\textsuperscript{31} A woman with insecure immigration status and NRPF experiencing domestic violence is placed in an impossible situation - a decision to leave an abusive partner means destitution, loss of immigration status and potentially deportation.

Furthermore, because women with NRPF are not entitled to housing benefits, Women’s Aid does not receive any public funds to provide shelter to these women. Though Women’s Aid does not wish to turn away any woman, the financial reality can make it impossible for Women’s Aid to shelter a woman with NRPF. The UN Rapporteur on Violence Against Women has provided a critical review of immigration policies that discriminate in this way, particularly within the European Union, and has challenged countries such as the Netherlands to provide an alternative response to such draconian legislation.\textsuperscript{32}

Women’s Aid previously received government funding for their “Last Resort Fund,” which allowed them to provide up to eight weeks of assistance to women with NRPF experiencing domestic violence. Government financing of this fund stopped in 2006, which has caused Women’s Aid to suspend their fund.\textsuperscript{33} While Women’s Aid Federation Northern Ireland has set up its own such fund to support women with NRPF, it is “severely limited in [its] capacity to do so, due to a lack of funding and resources,” and calls on the government to set up an emergency fund with adequate financial resources to ensure that no woman facing domestic violence is forced to stay in an abusive and potentially life-threatening situation because of an inability to pay shelter costs.\textsuperscript{34} In 2012, the Northern Ireland Executive provided a £45,000 ‘Crisis Fund’ to a number of organisations to use for destitute persons with no recourse to public funds. Access to the Crisis Fund enabled Women’s Aid and other women’s groups to provide support to women with no recourse to public funds, who were experiencing domestic violence.

\textsuperscript{32} The UN Rapporteur on Violence Against Women stated that the law excluding undocumented immigrant women from accessing State shelters for domestic violence in the Netherlands exposed them to arrest, created an obstacle to accessing justice, and made them vulnerable to a range of violations. See ‘15 Years of the UN Human Rights Council Special Rapporteur on Violence against Women [1994-2009] – A Critical Review”, available at http://www2.ohchr.org/english/issues/women/rapporteur/docs/15YearReviewofVAWMandate.pdf
\textsuperscript{33} http://www.womensaid.org.uk/domestic-violence-survivors-handbook.asp?section=000100010008000100350001&sectionTitle=Women+from+Black+and+ethnic+minority+communities
\textsuperscript{34} http://www.womensaidni.org/about-us/our-work/policy-and-lobbying/women-with-no-recourse-to-public-funds/
violence. This fund, administered by the Community Foundation Northern Ireland, has not been forwarded in the past six months and as of June 2013, the status and availability of this fund is unknown, despite a range of organisations dependent on this fund raising their concerns with the Executive. We would urge that the Crisis Fund be urgently addressed and that the Committee’s advice be followed for crisis funds to be maintained, and where possible mainstreamed, by state parties.

Women’s Aid and other respondents in this study have welcomed the introduction of the Domestic Violence Rule into the Immigration Rules35, but many have cited its shortcomings and inadequacies. The domestic violence rule enables BME women who have experienced domestic violence whilst residing in the UK with their male partner (spouse or durable partnership), to remain in the UK by virtue of their victim status. However, it is applicable only to married women or women in a durable relationship with a British national or ‘settled’ man living in the UK. It is also dependent on the woman not having ‘over-stayed’ her visa requirement. Women who are victims of domestic violence as the partner of asylum-seekers; spouses, partners or fiancées of students or temporary workers in the UK, durable partners of EEA nationals,36 or women who have entered without permission are not protected under this rule.

Furthermore, even women with NRPF who fall into the limited category of those who can apply for indefinite leave to remain (ILR) under the Domestic Violence Rule are often not granted ILR. While data specific to Northern Ireland could not be found, Hansard reports show that in the first five years of the rule being in place, 67% of applications (2101 of 3144 applications) made throughout the UK under the Domestic Violence Rule were refused.37 It has been suggested that this is largely attributable to unreasonable proof requirements.38

35 The concession was initially introduced in 1999 and passed into law in 2002 under para.298A of the Immigration Rules.
36 This is an anomaly under EU law where the UK has failed to protect durable partners EEA citizens by advancing the same protection afforded to them as provided to non-nationals of UK citizens are ‘settled’ persons, see Aire Centre’s report at http://www.airecentre.org/pages/residence-rights-of-durable-partners-in-domestic-violence-cases.html
37 http://www.theyworkforyou.com/wrans/?id=2007-10-11b.156818.h; also Anitha (2008), supra note 16
38 Anitha (2008), supra note 16.
To apply for a right to remain in the UK under this rule, and independent of any previous partner, is extremely costly, and this has increased dramatically over recent years, rising from £750 in 2011 to £820 in 2012, currently standing at £1051. Not only is this a considerable expense to victims who have left the marital home but each dependent (a child) who wishes to remain with the mother also has to pay a fee. The fee can only be waived if the woman can demonstrate that she is ‘destitute’. To be considered destitute for the fee waiver, a woman has to be “totally reliant on third party support.” Women who are in ‘reasonable’ employment are not eligible and may spend months saving for the application, remaining in an abusive relationship in order to find the funds to pay for this fee.

Conclusion

Applying a human rights based framework for BME women experiencing domestic violence

The Committee’s General Recommendation 19 stipulates that “States may also be responsible for private acts if they fail to act with due diligence to prevent violations of rights or to investigate and punish acts of violence, and for providing compensation.” The naming of the State as a duty bearer for prevention and investigation of, protection from, and redress and compensation for wrongs committed by the State, its agents, and non-State actors through the principle of due diligence has been an important advancement in international law regarding women. The mandate’s identification of specific groups of women, such as BME women, has helped grant recognition to women who face multiple risks/violations, as well as greater barriers in accessing justice due to marginalization and multiple discrimination based on ethnicity as well as on gender.

What this study shows is the compounded effects of more than one form of discrimination. The research here emphasizes the recognition of the multidimensional aspects of violence faced BME women. It also draws attention to the additional barriers in accessing criminal justice and welfare systems due to non-citizen status and/or unfamiliarity with the English language and local systems. Low income, economic dependency, isolation and stigma also have to be factored in as additional barriers. The intersectional framework outlined here highlights the need for differentiated responses by public bodies tasked with responding to

39 This refers to types of employment that are above the minimum wage.
domestic violence. What this study spotlights is the persistent lack of special measures for BME women currently needed to correspond to these additional risks and barriers.

Applying a human rights perspective to domestic violence would help to create momentum for breaking the silence around this violence in Northern Ireland. Today, a life free of intimate partner violence should be increasingly accepted as an entitlement rather than merely a humanitarian concern, but the reluctance to come forward shows that there is some way to go yet before this entitlement is internalised by BME women themselves. Embedding this thinking into local communities would mean that the subordination of, and violence against, BME women are no longer seen as fate but instead connected to their abilities as autonomous human beings capable of negotiating the terms of their existence in both public and private spheres.

Viewing domestic and sexual violence in this way means that the State is obligated not merely to protect against violence, but rather to eliminate its “causes”—that is, gender discrimination at structural, ideological and operational levels—as well as to bear the responsibility for addressing its consequences. Making the linkage among unequal power relations and violence against women shows how gender inequality can result in women’s lack of information, disempowerment, an inability to negotiate safe sex and an increasing vulnerability to physical and sexual assaults in intimate relationships. This marks a radical departure from the traditional notions of state intervention, predominantly in the aftermath of the violence and dealing with the consequences rather than prevention. Similar to Women’s Aid, the Northern Ireland Council for Ethnic Minorities’ good practice of involving clients, and drawing on their expertise as well as their concerns, shows that BME women can also be ‘agents of change’ in this area. This process of empowerment and participation builds on the human rights based framework. The State should develop a specific strategy for BME women on domestic violence. This should build on a participatory approach, engaging with BME women and providing adequate funding empowering them to develop and provide protection for those experiencing domestic violence in Northern Ireland.

Considerations for the Committee

**Article 2: Policy Measures**
1. The Committee may wish to ask the UK Government whether it intends to extend the Domestic Violence Rule under the Immigration Rules to all BME women experiencing domestic violence;

2. The Committee may wish to ask the UK Government whether it intends to reduce the cost of the application for indefinite leave to remain for victims of domestic violence;

3. The Committee may wish to ask the UK Government whether it intends to review evidentiary requirements in the Domestic Violence Rule so as to bring them in line with what BME victims of domestic violence would reasonably be able to provide, considering the barriers highlighted in this study;

**Articles 5 and 16: Sex Role Stereotyping and Prejudice and Marriage and Family Life**

4. The Committee may wish to ask the UK Government how it intends to eliminate the perpetuation of gender role stereotypes that see women as financially dependent on men, which are currently reinforced through the government’s “no recourse to public funds” policies, as well as deficiencies in the benefits system (see also recommendations 1-3, 7);

**Article 11: Employment**

5. The Committee may wish to ask the UK Government how and whether it intends to ensure that adequate social services are in place to enable mothers who have left an abusive home to balance family obligations with employment, thereby fostering economic independence;

**Article 12 and General Recommendation 24: Health**

6. The Committee may wish to ask the UK Government how it intends to ensure that appropriate interpretation services are provided in health services, and to ensure that all interpreters and medical personnel are appropriately trained to respond effectively to domestic violence;

**Article 13: Economic and Social Benefits**
7. The Committee may wish to ask the UK Government whether it intends to amend the current guidelines in the Child Benefit Agency to enable victims of domestic violence to access benefits more easily where the male partner is in receipt of Child Benefit;

**General Recommendations 12 and 19: Monitoring Violence Against Women**

8. The Committee may wish to ask the UK Government how and whether it intends to ensure rigorous data collection systems are in place to identify victims of domestic violence on grounds of ethnicity and nationality, to enable appropriate allocation of resources and to establish measures for protection and prevention.

**General Recommendation 19: Violence Against Women**

9. The Committee may wish to ask the UK Government how the devolved administration in Northern Ireland intends to provide education to staff of public services to prevent prejudicial attitudes based on racism and sexism and to encourage effective support to all victims of domestic violence, in order to ensure there are adequate protective and support services for BME women;

10. The Committee may wish to ask the UK Government how and whether it intends to provide effective training to staff of public services to ensure that interpretation services are provided, and to ensure that all interpreters are appropriately trained on responding effectively to domestic violence, in order to ensure there are adequate protective and support services for women who are not proficient in English;

11. The Committee may wish to ask the Northern Ireland Executive why the allocation of emergency funds has been interrupted over the past six months and whether the government intends to renew the Northern Ireland Crisis fund to ensure that there are adequate protective and support services for women with insecure immigration status;

12. The Committee may wish to ask the UK Government whether it intends to increase funding to NGOs such as Women’s Aid and NICEM to enable them to provide protection and support for BME women experiencing, or having who experienced, domestic violence,
and to foster grassroots leadership to challenge customs and norms in relation to domestic violence within BME communities.
Appendix: List of people interviewed

1. Ballymena Inter-ethnic Forum, Representative
2. Barnardos, Children Services Manager
3. Belfast Migrant Centre, Advice and Advocacy Manager
4. Belfast Migrant Centre, Advice Worker
5. Belfast Migrant Centre, Bilingual Advice Worker
6. Belfast Trust, Community Worker
7. Black and Minority Ethnic women’s focus group: representatives of the Romanian, Thai, and Congolese communities
8. BME woman of Muslim background
9. BME woman of mixed background
10. Falls Women’s Centre, Project Education Worker
11. Law Centre, Lawyer
12. Northern Ireland Council for Ethnic Minorities, Development Officer
13. PhD student, researching domestic violence and no recourse to public funds
14. Police Service of Northern Ireland, Human Rights Adviser
15. Police Service of Northern Ireland, Detective Inspector, Criminal Justice Department
16. Public Prosecution Service, Senior Public Prosecutor
17. Sexual Assault Referral Centre, Clinical Director and Lead Forensic Medical Officer
18. Southall Black Sisters, Senior Staff Member
19. Windsor Women’s Centre, Multicultural Group Facilitator