**Responses to the Justice Committee on the Victims Bill Draft**

We write in response to the consultation on the draft Victims Bill. Our evidence shows that certain groups face an increased risk of being a victim of crime yet do not benefit from statutory protections or support. We use evidence from the SEREDA projects’ research in England and Wales, undertaken between 2018 and 2022, which includes interviews with 87 victims of sexual and gender based violence (SGBV) and over 30 individuals working with victims from a wide range of organisations (NHS, local authorities, mainstream and grassroots third sector organisations). Our evidence clearly demonstrates that these groups, as is potentially the case for other groups, face particular vulnerabilities around victimisation (see Appendix). We hope that this legislation will enshrine in law the statutory protections so desperately needed by all vulnerable victims of crime.

We welcome the Victims Bill and accompanying measures and the setting of expectations around the quality of support that victims should receive. Increasing investment and prioritising victims’ needs offers the prospect to address some of the problems currently faced by excluded groups such as migrant victims. Below we respond to the topics posed by the Justice Committee:

1. **The Bill’s definition of victim.**

We welcome the definition of a victim as a person who has suffered harm as a direct result of being subject to, or witnessing, criminal conduct. We stress the importance of the code applying to “all” victims as set out in the consultation and not restricting the application of the code or any other mechanisms introduced in the Bill to specified descriptions of victims.

1. **The Government’s proposal to put the overarching principles of the Victims’ Code in primary legislation and set out key entitlements in secondary legislation, consulting on changes to the Code once the Bill is in force.** Enshrining the Code in law is a positive step forward. The draft code should be subject to consultation with all victims and the organisations that support them. We are concerned that victims’ entitlements should be clearly set out in primary legislation and that these entitlements are broadly applied to all victims of crime on UK soil in order to avoid misinterpretation and risk discrimination.
2. **The key changes the Government should consider making to the Victims’ Code, including consideration of those already proposed by the Government in its response to the consultation**. We note that the Victims Code (under clauses 2 to 4) will make provision for who is entitled to receive services and any restrictions. We argue that the services should be available unrestricted to all those who have been a victim of crime.
3. **The Government’s proposals to amend the role of the Victims’ Commissioner.** We welcome the requirement that the Victims Commissioner lay an annual report before Parliament and ask that this report focus across the needs of all victims identifying where needs are unmet. We argue that the Victims Commissioner should retain oversight of monitoring to ensure that PCC’s are utilising the Code in ways that meet the needs of all victims.
4. **The Government proposals to place a duty on the relevant criminal justice agencies (the police, the Crown Prosecution Service, HM Courts & Tribunals Service, Youth Offending Teams and HM Prison and Probation Service) to collect data and keep under review their delivery of the Code.** We welcome the duty to collect data and review the delivery of the Code. We stress the importance of getting feedback from all victims and not just those who utilise services or meet described characteristics. A measure of the Code’s success and that of the strategy will be whether it meets the needs of all victims.
5. **The Government’s proposals on the role of the inspectorates, including an improved focus on victims, and a new power for the Government to direct aspects of their work.** Again the enhanced role of inspectorates is welcomed but with the caveat set out above that their role includes scrutiny of the Code compliance and other matters for all victims, for example migrants and other minoritised groups.
6. **Whether the legislative steps proposed by the Government will lead to an improvement in the commissioning of support services?** Increased resourcing of services proposed through a rise in the Victim Surcharge offers the potential to improve availability of services. The requirement to collaborate offers great potential to ensure that services are designed to meet wide ranging needs. Responses to the consultation stressed the inaccessibility of existing services to some groups for example migrant and minoritised women. It is essential that diverse user groups are included in collaborations and consultations. Further, specialist services must be commissioned to meet the complex needs of victims like those identified in the SEREDA project. The Bill should state that commissioning and service provision must account for all needs. Without the statutory inclusion of all victims there will continue to be a dearth of services and insufficient opportunities for victims to receive the advice and guidance needed to escape victimisation.
7. **Whether the steps outlined by the Government will lead to increased awareness and effectiveness of the ISVAs and IDVAs?** The statutory definition of ISVAs and IDVAs proposed alongside the provision of guidance re roles etc., alongside a radical increase in the numbers of these roles offers scope to increase understanding of their roles and access to their services. However as noted in the response to consultation, ISVAs and IDVAs can only impact on the engagement of all victims with the criminal justice system if they have the necessary knowledge and understanding of the special circumstances of victims such as migrant victims. Strengthening the role of the VAs so they can support all victims means including in the legislation the obligation to increase the capacity of VAs to meet diverse needs. Further, access to VAs for all victims is only likely to be achieved through working with specialist “by and for” organisations.
8. **What implementation, resourcing and accountability challenges exist with respect to the Victims Bill?** The provisions in the Bill are likely to provide better support for many victims. However provisions will not impact on all victims of violence unless they include special provision for language, immigration and cultural factors and address the issue of safe reporting (see below).
9. **Whether there should be any further measures included in the Bill?** If the Bill is to meet the needs of all victims then measures must be introduced to
	* 1. Enable secure-reporting of all crimes. Without a ‘firewall’ or system of secure reporting to make it safer for victims with insecure immigration status to approach the police to report crimes safely victims with insecure migration status will not feel safe to report crimes. Without clear and explicit understanding that approaching the police will not result in any engagement with Immigration Enforcement, victims will not report and perpetrators will abuse with impunity. This was highlighted in the 2018 super complaint by Southall Black Sisters and Liberty on data sharing between the Police and the Home Office: they argued 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.
		2. Ensure the Victims Code and Strategy applies to all victims and that this provision is set out in primary legislation. This includes anyone without regularised immigration status (i.e. asylum seekers, people such as spouses with no recourse to public funds) who are victims of crimes. Victims of crimes should be treated first and foremost as victims with priority given to their protection and support regardless of whether they are subject to immigration processes.
10. **Are there any relevant international examples the Committee should consider?**
11. **Whether the provisions of the Bill could have any implications for due process?** Without an explicit statement in primary legislation that the definition of all victims includes anyone who has been victim of a crime and the exclusion of the possibility of the Bill, the Code, or the proposed strategies ruling out specified descriptions of victims there is a strong danger that secondary legislation may discriminate against some types or categories of victims. Given that victimhood is understood to be universal there can be no justification for ruling in or out any specified description of victims. All victims must mean exactly that.

**Appendix**

In brief the relevant findings from the SEREDA project include:

* Violent dependency: immigration regulations make spousal migrants and secondary applicants in asylum claims dependent on remaining in a relationship with their spouse to remain in the UK, for housing and subsistence. Spouses in abusive relationships prevent them from learning English and from accessing information about what constitutes abuse and how to leave an abusive relationship, where to go for help etc. Many fear breaking up their relationship as they believe they will lose custody of their children and will be sent “home” and face honour based violence for bringing shame on their family.
* Migrant women and children are tricked into being trafficked into the UK unaware that they were entering undocumented. They are forced into prostitution and other work and threatened with immigration detention if they report the abuse. They are unaware that they are victims of crime. They are often told that they will be shamed in their community if they are sent home or that their family will be harmed.
* In the absence of information and fear of detention and return migrants remain in very exploitative situations subject to multiple forms of violence. They lack knowledge about the Domestic Violence Rule and National Referral Mechanism. The burden of proof to utilise these mechanisms is high and hard to meet for individuals who have been controlled by abusers and who are unaware of the need to collate evidence and who are denied access to medical and police services.
* Many individuals in the asylum system are victims of SGBV – globally it is thought that around 50% of forced migrants have been subject to SGBV but that figure rises to nearly 100% of all women fleeing Eritrea and/or passing through Libya. Many are subject to multiple acts of victimisation over time, place and at the hands of different perpetrators. On arrival in the UK these victims are not currently subject to the Code of Practice for Victims of Crime when within the asylum system. They are not interviewed in a trauma and gender-sensitive way or routinely given access to victims support services. Asylum interviews are experienced as retraumatising and despite cultural sensitivities and intimate content are often conducted by male caseworkers and in the presence of male interpreters making disclosure of victimisation difficult.
* Rejected asylum seekers are evicted from asylum accommodation and have no recourse to public funds status (NRPF). Women are extremely vulnerable to further victimisation when homeless and are abused on the streets or forced to enter exploitative relationships in order to have a roof over their heads.
* Spousal migrants, trafficked and enslaved migrants and rejected asylum seekers fear reporting being victimised as they risk being detained on immigration offences when reporting. This fear is reinforced by abusers who threaten to report them to the police for immigration offences if they report victimisation. Many also know of other migrants who have been arrested and detained when reporting a crime.

For further information see

UK report <https://www.birmingham.ac.uk/documents/college-social-sciences/social-policy/iris/2021/sereda-full-report.pdf>

UK policy brief <https://www.birmingham.ac.uk/documents/college-social-sciences/social-policy/iris/2021/sereda-asylum-immigration-system-brief.pdf>

UK Factsheet <https://www.birmingham.ac.uk/documents/college-social-sciences/social-policy/iris/2021/sereda-fact-sheet.pdf>