

DRAFT V 8 1 May 2018 FOR CIRCULATION to contributors

Shadow Report on Women in England submitted to the UN CEDAW Committee by the Women's Resource Centre for the examination of the United Kingdom of Great Britain and Northern Ireland in 2019

CEDAW Article I

For the purposes of the present Convention, the term "discrimination against women" shall mean any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field.

Extract from General Recommendation 28 of the CEDAW Committee:

The objective of the Convention is the elimination of all forms of discrimination against women on the basis of sex. It guarantees women the equal recognition, enjoyment and exercise of all human rights and fundamental freedoms in the political, economic, social, cultural, civil, domestic or any other field, irrespective of their marital status, and on a basis of equality with men. Although the Convention only refers to sex-based discrimination, interpreting article 1 together with articles 2 (f) and 5 (a) indicates that the Convention covers gender-based discrimination against women. The term "sex" here refers to biological differences between men and women. The term "gender" refers to socially constructed identities, attributes and roles for women and men and society's social and cultural meaning for these biological differences resulting in hierarchical relationships between women and men and in the distribution of power and rights favouring men and disadvantaging women. This social positioning of women and men is affected by political, economic, cultural, social, religious, ideological and environmental factors and can be changed by culture, society and community.¹

Executive Summary

1. This Report is the product of a consultation with women and women's organisations across England carried out online and via six regional workshops. Workshop notes and all the written evidence can be found at [insert web link when report finalised and published]

The UK State Report: the quality of the evidence

2. The State Report² focuses largely on future initiatives rather than providing an assessment of the impact of Government's work since the last examination in 2013. It includes very few statistics showing trends; this reflects a longstanding deficit in the collection of statistics disaggregated by sex, and other inequalities that intersect with sex. The systematic loss of such statistics means that impacts have become less visible, and only through specific research or the collation of data from women's organisations can impact be identified. The Report therefore includes weak evidence of progress, such as that black and minority ethnic (BME) women are being supported into the labour market through the efforts of Job Centre staff: the reduction in the gap is .6% and the claim of a causal link

¹ <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G10/472/60/PDF/G1047260.pdf?OpenElement>

² http://tbinternet.ohchr.org/Treaties/CEDAW/Shared%20Documents/GBR/CEDAW_C_GBR_8_7322_E.pdf

was not evidenced, nor endorsed by the BME women's organisations we consulted.

3. The Report was not produced in partnership with women's organisations, as required by CEDAW guidance,³ and thus omits much additional data; this is at least partly because there is no longer any standing platform for consulting women across the UK, as the UK Women's National Commission was abolished in 2010.⁴ The State Report admits that no platform is funded in England (where around 90% of UK women⁵ live). In contrast, Scotland and Wales fund women's organisations to ensure that the voices of women and girls are heard by decision-makers. The Report does not therefore offer the Committee a comprehensive picture of progress over the last four years.

Capacity in Women's Organisations

4. The capacity of women's organisations to develop informed policy positions and campaign on them is seriously limited, by regulation and by the funding landscape.
5. The Charity Commission, which regulates the majority of women's organisations, has stringent rules to limit campaigning.⁶ A majority of charities say that they have been inhibited in campaigning because of the Lobbying Act.⁷ Women's organisations are chronically underfunded⁸ and will be seriously impacted by the loss of EU funds if Brexit goes ahead. It is estimated that the UK charitable sector will lose £250 million a year without EU funding - £230 million of which goes to England.⁹ The Government has followed a policy of co-opting the charitable sector, including women's organisations, to deliver frontline services at the price of signing up to gagging clauses (which are recently made standard in all government contracts)¹⁰ preventing them from campaigning against Government policy

³ The Compilation of Guidelines on the Form and Content of Reports to be Submitted by States Parties to the International Human Rights Treaties sets out the following requirements for State Reporting to the CEDAW Committee: D.2.6. The report should describe the situation of non-governmental organizations and women's associations and their participation in the implementation of the Convention and the preparation of the report

https://digitallibrary.un.org/record/600446/files/HRI_GEN_2_Rev.4-EN.pdf

⁴ Engagement with Women across the UK Next steps, December 2010, Women's National Commission, http://webarchive.nationalarchives.gov.uk/20110818090901/http://wnc.equalities.gov.uk/publications/doc_details/475-wnclegacydocumentdec10.html

⁵ <https://www.ons.gov.uk/peoplepopulationandcommunity/populationandmigration/populationestimates>

⁶ 'legal requirement: a charity cannot exist for a political purpose, which is any purpose directed at ... securing or opposing a change in the law, policy or decisions either in this country or abroad.' Guidance, Campaigning and political activity guidance for charities March 2008 <https://www.gov.uk/government/publications/speaking-out-guidance-on-campaigning-and-political-activity-by-charities-cc9/speaking-out-guidance-on-campaigning-and-political-activity-by-charities>

⁷ <https://www.theguardian.com/environment/2017/may/21/charities-may-face-criminal-sanctions-as-gagging-law-backdated-before-election>

⁸ A Women's Resource Centre survey 2016 showed 42% had less than three months of their annual income in reserve and 33% had under 6 months. The impact of austerity measures on women's voluntary community organisations and the response of the women's sector, Robson, 2016, <https://thewomensresourcecentre.org.uk/wp-content/uploads/State-of-the-womens-sector-survey-reportMay2016-FINAL.pdf>

⁹ What does Brexit mean for UK charities' European Union funding? Directory of Social Change, 2017 <https://www.dsc.org.uk/wp-content/uploads/2017/11/here.pdf>

¹⁰ Government Grants Minimum Standards, Cabinet Office, last updated 21/11/2016 routinely exclude 'using grant funds to fund lobbying (via an external firm or in-house staff) in order to undertake activities intended to influence or attempt to influence Parliament, Government or political activity; or attempting to influence legislative or regulatory action'

or to change laws.

6. Women's organisations in the UK have traditionally been the main, usually the only, providers of women-centred, direct services to women, particularly the provision of specialist support services in the area of violence against women and girls (the most extreme manifestation of women's inequality). Central and local government increasingly fund these services. However, they have moved from grant-funding to a competitive marketplace that is structured to favour large, generic, sometimes multinational businesses, excluding smaller women-led community-based organisations. This has led to specialist women-led service providers like Apna Haq¹¹ losing its funding, despite 89% of BME women wanting support from a BME women's organisation.¹²

Public Sector Equality Duty

7. The government does not routinely undertake sex equality impact assessments¹³ despite the public-sector equality duty¹⁴ that requires them to consider the need to promote sex and other equality in their policies. Both the Scottish and Welsh governments have set more stringent requirements but the Westminster government removed the requirement for equality impact assessments in England some years ago. The weakened guidance in England is a serious dilution. **We echo** the Committee's call in 2013 to strengthen gender in the public-sector equality duty, to apply the same statutory guidelines for England, Scotland and Wales, and implement the duty on socio-economic inequalities; disappointingly the State Report does not address this recommendation.

Intersectionality¹⁵

8. The lack of data makes minority women even more invisible. There are references to BME women throughout the Report, but these are add-ons rather than a thorough intersectional analysis. The State Report offers a fragmented commentary on Government's initiatives. We note the comments of UN CERD that:
data are neither collected systematically in all fields where racial discrimination exists... [nor] uniformly across the [UK's] jurisdiction... lack of systematic and effective use of data to develop policies to tackle racial discrimination ... initiatives such as "2020 Vision" are not based on objective baseline assessment...a shift of the State party's policies away from special measures that

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/573795/minimum_grant_standard_6_grant_agreements_16_11_2016.pdf

¹¹ 'In London, 40.2% of the population is BME..In the 12 months ending March 2015 there were 733 referrals of BME women to refuges and only 154 were successful.' Capital Losses: the state of the specialist BME ending violence against women and girls' sector in London, Imkaan, 2016 https://drive.google.com/file/d/0B_MKSoEcCvQwdjXQm5GVDBISmM/view

¹² State of the Sector: contextualising the current experiences of BME ending violence against women and girls organisations, Imkaan, 2015, page 8, <https://www.dropbox.com/s/c3n2gjs4g2g37s2/IMKAAN%20-STATE%20OF%20THE%20SECTOR%20%5BFINAL%5D.pdf?dl=0>

¹³ 'The Equality Act 2010 does not require public authorities to carry out EIAs' para 3.1 House of Commons Library BRIEFING PAPER Number 06591, 15 December 2017, The Public Sector Equality Duty and Equality Impact Assessments <http://researchbriefings.parliament.uk/ResearchBriefing/Summary/SN06591#fullreport>

¹⁴ <https://www.equalityhumanrights.com/en/advice-and-guidance/public-sector-equality-duty>

¹⁵ Intersectionality as developed by Kimberlé Williams Crenshaw examines the overlapping discrimination that women are subject to due to their ethnicity, sexuality and economic background.

are targeted specifically towards vulnerable groups may... exacerbate the existing inequalities on the grounds of race...¹⁶

We agree; for example, the NHS National Data Dictionary does not collect data on Gypsies and Irish Travellers.¹⁷

9. We also note that the obligations in UN CERD, CEDAW General Recommendation No. 18 on disabled women and the Convention on the Rights of Persons with Disabilities feature sparingly, if at all, in the UK's Report. The State Report notes that the employment rate for disabled working age women in the UK is 48%. No progress is reported, beyond the intention to decide on next steps. A reference to women in relation to other forms of discrimination perversely asserts the need to *limit* women's CEDAW rights in domestic law:

Noting the Committee's recommendation, UK Government does not agree that the Equality Act 2010 should incorporate all the provisions of the Convention. This would make it disproportionate in terms of gender, giving women more rights than others, for example disabled people or people from different BAME groups.

Promoting women's rights in the courts

10. This approach is consistent with the Government's resistance to promoting women's human rights domestically (in contrast to their advice to other Governments): it has a track record of fighting women through the courts, eg defending a challenge to its 'two-child rule'¹⁸ as breaching fundamental human rights to private and family life and to non-discrimination (currently subject to appeal); punishing women for protesting their conditions in Yarl's Wood¹⁹; while three women who were forced into prostitution as teenagers and have multiple convictions for soliciting under the Street Offences Act had to apply to the Courts for a ruling that forcing them to reveal past convictions was unlawful.²⁰

11. **We recommend** that the UK should bear in mind its intersectional obligations and create a more joined up progress Report; and reconsider its refusal to incorporate the provisions of CEDAW into domestic law.

The cumulative impact of government policies, particularly austerity, on women

¹⁶ para 13, Concluding observations on the periodic reports of United Kingdom, August 2016, CERD/C/GBR/CO/21-23

¹⁷ Hidden Needs: Identifying Key Vulnerable Groups in Data Collections, Aspinall, Centre for Health Services Studies, University of Kent, 2014,
https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/287805/vulnerable_groups_data_collections.pdf

¹⁸ The 'two-child limit' for child tax credit and universal credit came into force on 6 April 2017. Families who claim tax credits or universal credit, which have a third or subsequent child born after 6 April 2017, will no longer be able to claim a child element for this child or any future children. The child element is worth up to £2,780 per year (£232 per month) and until the policy came into effect was payable for all children in low-income families to help protect them from poverty. Families who make a new claim for universal credit from 1st February 2019 will only receive the child element for two children per family, even if the children were born before April 2017. <http://cpag.org.uk/content/high-court-finds-two-child-rule-exception-perverse>

¹⁹ <https://www.jrsuk.net/news/concern-at-home-offices-punitive-use-of-the-immigration-and-asylum-process/>

²⁰ The women argued they were stigmatised by the law, which requires disclosure of past convictions when applying for a range of jobs or volunteering <https://www.theguardian.com/society/2018/mar/02/former-prostitutes-win-legal-challenge-against-uk-government>

12. Throughout this Report we highlight not just the effect of individual policies but the cumulative impact that these have, taken together. In particular we draw attention to the impact of intersectionality, for example, between sex, race, and disability.

13. If the cumulative impact of government's various initiatives were analysed in the State Report it would show a disproportionate effect on BME women. BME women are more likely²¹

- to live in poverty and experience structural barriers in accessing the labour market, so the freeze in benefits²² is more likely to affect them;
- to suffer from poor health, so cuts to NHS budgets and other local health services have a disproportionate impact;
- to be employed in the public sector, which has been subject to cuts in jobs and working conditions.

14. The specialist black- and minority-led services²³ and women's services generally are impacted by the Government's construction of a competitive commissioning market for frontline public services such as violence against women and girls' services, which has slashed local women-led, community-based specialist services across the board,²⁴ leading to cuts and closures of refuges and Rape Crisis centres. BME women are less able to access the specialist help they need for the forms of violence that disproportionately affect them – for example, forced marriage, female genital mutilation, so-called honour-based violence. Finally, the Government's focus on creating a hostile environment²⁵ impacts women who look like migrants, particularly post the referendum on the UK's membership of the EU, which saw a serious increase in hate crime.²⁶ Tell Mama recorded a 47% rise in the number street-based incidents (n=642), in 2016, with the greatest impact felt by visible Muslim women, who wear Islamic clothing, be it the headscarf (hijab), face veil (niqab), the abaya, or a combination of garments. Where identifiable, 69% of perpetrators are white males. The language of some perpetrators also had misogynistic overtones, meaning that women were abused for their gender and religious identity.²⁷

15. The Scottish and Welsh governments have developed strategies to address and mitigate this hostile environment, but the Westminster

²¹ Intersecting inequalities: The impact of austerity on Black and Minority Ethnic women in the UK, UK Women's Budget Group, 2017

<https://wbg.org.uk/wp-content/uploads/2017/10/Executive-Summary-Intersecting-Inequalities-October-2017.pdf>

²² <http://www.cpag.org.uk/content/revised-benefit-cap-cpag-ds-and-others-v-secretary-state-work-and-pensions>

²³ Imkaan, The State of the Sector, 2015, [https://www.dropbox.com/s/c3n2gjs4g2g37s2/IMKAAN%20-%20STATE%20OF%20THE%20SECTOR%20\[FINAL\].pdf?dl=0](https://www.dropbox.com/s/c3n2gjs4g2g37s2/IMKAAN%20-%20STATE%20OF%20THE%20SECTOR%20[FINAL].pdf?dl=0)

²⁴ 'Women's refuge budgets slashed by nearly a quarter over past seven years'

<https://www.independent.co.uk/news/uk/politics/women-refuge-budget-cut-quarter-domestic-violence-victims-children-support-a8003066.html>

²⁵ <https://www.independent.co.uk/news/uk/politics/theresa-may-uk-immigration-nazi-germany-home-office-civil-service-lord-kerslake-a8311701.html>

²⁶ National Police Chiefs' Council figures show a record weekly 58% increase in recorded incidents aggravated by religious or racial hatred, compared with the previous year, in the post referendum period. Some areas were much worse: for example, reported hate crime increased by 400% in the Northumbria Police area²⁶

²⁷ <https://tellmamauk.org/wp-content/uploads/2017/11/A-Constructed-Threat-Identity-Intolerance-and-the-Impact-of-Anti-Muslim-Hatred-Web.pdf>

government has promoted a narrative that is clearly set out in the State Report: migrants should not be a cost to the taxpayer. This narrative ignores the research evidence that demonstrates that in the UK migrants are a net contributor to the public purse, being largely of working age and therefore paying taxes, in contrast to the ageing indigenous population.²⁸

Brexit

16. In 2016 the Government called a referendum on the UK's membership of the EU. The vote to leave was by a very narrow margin of 52% to 48%. The economic impact of Brexit is likely to be damaging to women, because of estimates of lower GDP by 2030 compared to the situation had we remained in the EU.²⁹ There will be specific impacts on women across the full range of rights under CEDAW - as migrants, residents and citizens, as workers, as students, as users of public services and as consumers, due to women's and men's different economic positions, reproductive and caring responsibilities, and power. 75% of young women aged 17-21 are worried about what Brexit could mean for their future.³⁰ However, no impact assessment of the effect on women was undertaken by the Government in advance of the referendum, nor since, and there is but a single reference in the State Report on this, making this commitment:
The UK is preparing to leave the EU in the best possible way for the UK's national interest and is committed to ensuring the UK emerges from this period of change stronger, fairer, more united and more outward looking than ever before.
17. EU law does not allow members to reduce equalities rights, whereas under UK law, these protections could be reduced as well as increased. The loss of these equality guarantees and the rights of EU citizenship³¹ roll back women's rights in the UK.

Equality Strategy

1. The UK has no Equality Strategy to promote women's rights or monitor progress under CEDAW. The implementation of Agenda 2030 (the Strategic Development Goals (SDGs)) domestically is led by the Department for International Development,³² which, as its name suggests,

²⁸ 'we find that higher net inward migration is likely to improve the long-term fiscal position' Office for Budget Responsibility Fiscal Sustainability Report 2014 <http://obr.uk/box/migration-and-fiscal-sustainability/>

This is repeated in the Fiscal Sustainability Report 2017, para 3.120 offers a range of estimates of fiscal benefit, showing the if net inward migration was in line with the average flows seen over the past decade this would reduce the primary deficit by 0.6% of GDP and net debt by 26% by 2066-67 http://cdn.obr.uk/FSR_Jan17.pdf

²⁹ Exploring the Economic Impact of Brexit on Women, UK Women's Budget Group, 2018, <https://wbg.org.uk/wp-content/uploads/2018/03/Economic-Impact-of-Brexit-on-women-briefing-FINAL.pdf>

³⁰ Girls' Attitudes Survey of over 1,900 girls and young women aged 7 to 21, 2017 <https://www.girlguiding.org.uk/social-action-advocacy-and-campaigns/research/girls-attitudes-survey/>

³¹ The Equality and Human Rights Commission notes "the loss of the guarantee for equality rights provided by EU law. As a result of Brexit a future government could seek to pass laws which repeal or weaken our current rights below the standard of EU law rights' <https://www.equalityhumanrights.com/en/our-human-rights-work/what-does-brexit-mean-equality-and-human-rights-uk>

³² 'The primary purpose of the Goals is to eradicate extreme global poverty; therefore the Department for International Development (DFID) retains the policy oversight for the Goals.' Agenda 2030, The UK Government's approach to delivering the Global Goals for Sustainable Development -at home and around the world https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/603500/Agenda-2030-Report4.pdf

has no domestic locus; its Secretary of State is also UK Minister for Women and Equalities. By contrast, Scotland has created a National Performance Framework which will be its mechanism to implement the SDGs. UK equality machinery has been weakened by major cuts to the Equality and Human Rights Commission. Agenda 2030 centres 'Leaving No One Behind'³³ and defines social inclusion as the "process of improving the terms of participation in society, particularly for people who are disadvantaged on the basis of age, sex, disability, race, ethnicity, economic and migrant status". An Equality Strategy would address these priorities, which we raise consistently throughout this Report.

2. Taken together, the absence of a strategic approach, the cumulative effect of these linked public policies, the differences in women's rights across the separate jurisdictions of England, Scotland and Wales highlighted throughout the State Report, and the loss of rights under Brexit, means that the UK cannot claim to be compliant with the requirement for "progressive implementation of human rights"³⁴ as required under the UN Conventions to which it is signatory.

2 and 3 Discrimination and the Development and Advancement of Women

3. Much of the legislation protecting equality and workplace rights that women benefit from originated in, or was strengthened through, the EU. EU law allows countries to increase protections but not reduce them; if the UK leaves the EU, these protections could be reduced. EU law contains important protections: for example, all EU member states must comply with the Victims' Directive which sets out minimum standards to ensure rights, protection, support and dignity to all victims of crime, regardless of residency status.³⁵

Persons who are particularly vulnerable or who find themselves in situations that expose them to a particularly high risk of harm, such as persons subjected to repeat violence in close relationships, victims of gender-based violence, or persons who fall victim to other types of crime in a Member State of which they are not nationals or residents, should be provided with specialist support and legal protection. Specialist support services should be based on an integrated and targeted approach which should, in particular, take into account the specific needs of victims, the severity of the harm suffered as a result of a criminal offence, as well as the relationship between victims, offenders, children and their wider social environment

(EU Victims Directive, 2012: Paragraph 38).

4. The Government's EU Withdrawal Bill allows ministers 'effectively unlimited powers' (known as Henry VIII clauses) to determine which laws stay post-Brexit and which bypass parliamentary scrutiny.³⁶ The

³³ Leaving no one behind: the imperative of inclusive development, Report on the World Social Situation 2016 Executive Summary, United Nations, <http://www.un.org/esa/socdev/rwss/2016/executive-summary.pdf>

³⁴ The concept of "progressive realization" describes...the obligation to take appropriate measures towards the full realization of economic, social and cultural rights to the maximum of their available resources (Frequently Asked Questions on Economic, Social and Cultural Rights, Fact Sheet No. 33, Office of the United Nations High Commissioner for Human Rights, 2008, <http://www.ohchr.org/Documents/Publications/FactSheet33en.pdf>)

³⁵ Survivors' Rights: The UK's new legal responsibilities to provide specialist support for women and girls who have experienced violence EVAW Coalition Briefing Paper, 2015

<https://www.endviolenceagainstwomen.org.uk/wp-content/uploads/Survivors-Rights-EVAW-Coalition-September-2015-1.pdf>

Government plans to remove the Charter of Fundamental Rights,³⁷ a directly regressive move. The Government has undertaken no analysis of the impact of Brexit on women.

5. Austerity has had a disproportionate impact on women, especially in BME households and households on lower incomes, because these vulnerable groups tend to rely more on public services and benefits for their income.
6. Women are affected by a ‘triple whammy’:³⁸
 - Women use more public services and are the majority of welfare benefit recipients. This is because women are more likely to be poor, a consequence of a looser attachment to the labour market due to their traditional role as unpaid carers, their longer life expectancy, and because they often take sole responsibility to care for children, elderly, sick and disabled people.
 - Women make up the majority of the public-sector labour force. Cuts to public spending and to public-sector jobs have made many women unemployed or moved them to low-paid and temporary job positions, increasing their financial insecurity.
 - Women are more likely to have to make up for lost services by increasing the amount of unpaid care work they perform in looking after elderly, disabled or young family members.
7. BME households also face persistent structural inequalities in education, employment, health and housing meaning that they have also been disproportionately affected by these cuts. For BME women, gender inequalities intersect with and compound racial inequalities, making these women particularly vulnerable to cuts to benefits, tax credits and public services.
8. In terms of non-discrimination and women’s rights, CEDAW states that it is not sufficient for a discriminatory legal framework to be absent; policies must also not be discriminatory in effect. Given the clear disproportionality of austerity measures impacting women and minority groups, there is a clear violation of CEDAW and of the right to protection from discrimination (Article 26 of the International Covenant on Civil and Political Rights). The heavier burden of unpaid care work performed by women due to cuts to public services impacts on women’s ability to enjoy their right to participate

³⁶ “the number, range and overlapping nature of the broad delegated powers would create what is, in effect, an unprecedented and extraordinary portmanteau of effectively unlimited powers upon which the Government could draw. They would fundamentally challenge the constitutional balance of powers between Parliament and Government and would represent a significant—and unacceptable—transfer of legal competence. We stress the need for an appropriate balance between the urgency required to ensure legal continuity and stability, and meaningful parliamentary scrutiny and control of the executive.” - House of Lords Constitution Committee, European Union (Withdrawal) Bill: interim report (3rd Report, Session 2017–19, HL Paper 19), para 44

³⁷ House of Commons Briefing Paper Number 8140, 17 November 2017 EU (Withdrawal) Bill: The Charter, General Principles of EU Law, and 'Francovich' Damages, Chapter 2, The Government's position: Clause 5(4) of the Bill says “The Charter of Fundamental Rights is not part of domestic law on or after exit day”. The Government considers that the Charter would not be “relevant” after Brexit, because it applies to the UK only when the UK is acting “within the scope” of EU law.

<http://researchbriefings.parliament.uk/ResearchBriefing/Summary/CBP-8140>

³⁸ This section draws on the analysis of the UK Women’s Budget Group 2018

<http://www.ohchr.org/Documents/Issues/Development/IEDebt/WomenAusterity/WBG.pdf>

in public life (Article 25 of the ICCPR). Moreover, cuts to the safety net of women and BME people constitute a violation of their economic and social rights, such as the right to work (Article 6 of the International Covenant on Economic, Social and Cultural Rights), right to social security (Article 9 of ICESCR), protection and assistance to the family (Article 10 of ICESCR), and adequate standard of living (Article 11 of ICESCR).

9. There are examples of good practice locally that the UK could adopt nationally. In 2013, the Bristol Mayor signed the European Charter for Equality of Women and Men in Local Life. A Women's Commission will implement the Charter and draw up a Bristol action plan to address women's discrimination and disadvantage.³⁹
10. UN human rights covenants require states to avoid retrogression and highlight the importance of fiscal policy in mobilising the maximum resources to fulfil human rights. **We support** the UK Women's Budget Group recommendation that the UK should: end tax and spending cuts that affect the fulfilment of socio-economic rights; ensure that current legal rights and protections cannot be changed without parliamentary scrutiny and involvement of citizens and civil society; ensure that equality impact assessments of trade agreements inform negotiations.

6 Trafficking and Prostitution

11. The State Report recognises the need to gather a robust evidence base on the nature and prevalence of sex work in England and Wales and has assigned funding of £150,000 for research.⁴⁰ This is unacceptable as an account of progress over the last four years. By contrast, Northern Ireland has adopted the Nordic model.⁴¹
12. **We recommend** that the Government adopt the Nordic model across the UK, to protect the safety of women in prostitution and challenge the abuses by the sex industry and the damaging narrative that sexual access to women's bodies is a legitimate form of commerce.
13. Non-State torture must be specifically criminalised into national law as it is inflicted against women or girls who are subjected to human trafficking and sexualised exploitation.⁴² ⁴³ This ensures that the State adopts appropriate

³⁹<https://www.bristol.gov.uk/documents/20182/1655362/JSNA+Chapter+Women%27s+Health+%28V14%29/9024901c-46fe-e13a-a194-0260ed22a3c1>

⁴⁰ Ratification of the Council of Europe Convention on Combating Violence Against Women and Domestic Violence (Istanbul Convention)–Report on Progress, Home Office, November 2017

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/656561/CCS207_CCS1017309396-1_HO_Istanbul_Convention_report_WEB_ACCESSIBLE.PDF

⁴¹ <https://morningstaronline.co.uk/a-d93d-lessons-from-irelands-new-prostitution-laws-1>

⁴² Sarson & MacDonald, (2016), Seeking equality, justice, and women's and girls' human right not to be subjected to non-state torture. In J. Scutt (Ed.). Women, law and culture, Conformity, contradiction and conflict. pp 263-281.

<https://www.palgrave.com/us/book/9783319449371>

⁴³ Sarson, MacDonald (2018), No longer invisible: Families that torture, traffic, and exploit their girl child. Oñati Socio-legal Series [online], 8(1). Retrieved from <http://ssrn.com/abstract=3086626>

legal protection thereby eliminating human rights discrimination against women.

9 Nationality

14. There is a lack of protection and support for migrant women facing domestic abuse and their children, transnational marriage abandonment, and extra-territorial jurisdiction. Southall Black Sisters' written evidence gives more details (Appendix B).

10 Education

Careers

15. Data collected from over 7,700 teenagers showed that teenage girls have higher aspirations than boys about their education prospects, but the average hourly wage for the girls' future occupations was 27% lower than the boys'.
16. Girls and boys both tended to want jobs where the workforce was dominated by their own sex, reflecting the longstanding sex segregation of the labour market. Boys chose occupations with an average workforce that is 74% male. Girls chose jobs where females make up 59% of the workforce.⁴⁴ **We recommend** that careers advice is improved and explicitly designed to challenge the gender stereotype that girls cannot do certain jobs.

Violence in Schools

17. The Women and Equality Parliamentary Select Committee held an Inquiry into sexual violence in schools.⁴⁵ They discovered that there is no centralised data collection of sexual harassment and sexual violence in schools. Under-reporting, and a lack of consistency in schools reporting sexual assault to the police and other authorities, also makes it hard to establish a definitive picture of levels of sexual violence in schools. However, they took evidence collected by the BBC in 2015 that 5,500 sexual offences were recorded in UK schools over a three year period, including 600 rapes.
18. **We agree** with the recommendations of the Committee that the Government should:
 - create a duty on every school governing body to take appropriate action to prevent and respond to sexual harassment and sexual violence. Clear national guidance and support must be developed to help achieve this effectively through a 'whole school approach', involving teachers, governors, school leaders, parents, young people and specialist sector organisations working together.

⁴⁴ <http://www.ucl.ac.uk/ioe/news-events/news-pub/dec-2017/teenage-girls-lower-paying-jobs>

⁴⁵ Sexual harassment and sexual violence in schools, 2016, Women and Equalities Committee
https://publications.parliament.uk/pa/cm201617/cmselect/cmwomeq/91/9105.htm#_idTextAnchor009

- Require Ofsted and the Independent Schools Inspectorate to assess schools on how well they are recording, monitoring, preventing and responding to incidents of sexual harassment and sexual violence.
- Ensure every child at primary and secondary school has access to high quality, age-appropriate relationships and sex education delivered by well-trained individuals. This can only be achieved by making sex and relationships education (SRE) a statutory subject; investing in teacher training; working with sexual violence specialists to update SRE guidance; ensuring teachers have access to appropriate materials; and investing in local third sector specialist support.

19. Compulsory SRE education must include healthy relationships and consent. For example, the Bristol Ideal badge offers a set of standards for schools to follow to tackle domestic and sexual violence in Bristol.⁴⁶

Higher and Further Education

20. Funding to universities and colleges in England in 2017 to address sexual violence and harassment helped develop improved practices. **We recommend** that the new Office for Students take specific responsibility for regulation and enforcement of minimum standards of prevention, monitoring, reporting and support on VAWG (as distinct from other abuse or harassment). Similarly, while new guidance for schools in England issued by the Department for Education is welcome, as are moves in England to make the delivery of relationships and sex education (RSE) statutory, schools will face limited accountability in eliminating sexual harassment with the demise, since 2010, of most gender equality advisory posts in local government and local education authorities. The standards bodies across the four nations who are, or will be, tasked with monitoring actions to tackle sexual harassment in education do not have the required specialist knowledge or resources.

11 Employment

21. Uncertainty about the form of Brexit makes it impossible to predict accurately the overall economic impact or the gendered implications.⁴⁷ However, the majority of economists predict a negative impact on GDP of any Brexit: estimates range from -1.5% to -9.5%. The least damaging scenarios are those closest to EU membership (retaining membership of the Single Market and Customs Union); 'no deal' would be the most damaging. The UK would have to negotiate a trade deal with the EU and separately with the 65 countries that have deals with the EU and is unlikely to get more favourable terms than those currently enjoyed by the UK as a member of the larger EU with its greater negotiating power. Evidence shows that trade liberalisation does not automatically increase women's employment.⁴⁸ Post-Brexit trade deals could give overseas companies the power to sue the UK government if its policies damaged their profitability,

⁴⁶ https://www.bristol.gov.uk/en_US/web/bristol-healthy-schools/our-badges-and-awards/bristol-ideal-badge

⁴⁷ Most of this section is drawn from Exploring the Economic Impact of Brexit on Women, Mott et al, March 2018, <https://wbg.org.uk/wp-content/uploads/2018/03/Economic-Impact-of-Brexit-on-women-briefing-FINAL.pdf>

⁴⁸ Fontana (2016) Ibid.

such as increasing the national minimum wage or bringing services that have been privatised back into public ownership.

22. The Government should be planning for the needs of women whose access to the resources and skills required to participate in the labour markets on decent terms is heavily influenced by their sex and position in society.⁴⁹

Women as workers

23. A shrinking post-Brexit economy means job losses, particularly in sectors that depend on trade with the EU, such as clothing and textiles which have a majority female workforce.

24. Women account for 58% of the increase in insecure work since 2011.⁵⁰ Between 2011-2016, a third of employment growth for women has been insecure, but less than a quarter of men's. Insecurity disproportionately affects BME women; one in 12 BME women in employment is in temporary work. The overall numbers in zero-hour contracts has stabilised but the numbers for women have increased by 22,000 over the year, affecting more BME women. The skills gap for BME women is often considerable: for example, Gypsy/Irish Travellers have the highest proportion with no qualifications for any ethnic group (60%) – almost three times higher than for England and Wales as a whole (23%), affecting their employment prospects.⁵¹

25. Women have driven the rapid growth in UK self-employment.⁵² Female self-employment increased for part-timers from 439,000 to 812,000 between 2001 and 2016, and for full-timers from 433,000 to 732,000. The UK labour market is still segregated vertically and horizontally by sex, with the fastest increase in self-employment occurring in low paid sectors like clerical, caring and cleaning, which are dominated by women workers. The government's own data show that the gender pay gap amongst the self-employed is significantly higher than amongst employees.⁵³

26. The State Report highlights efforts to close the gender pay gap. While the introduction of mandatory gender pay gap reporting in England for organisations with more than 250 employees is welcome, the majority of women are employed in small and medium-sized enterprises (SMEs) and are therefore excluded; nor is there any duty on employers in England to reduce the gap. By contrast in Scotland, all listed public authorities with more than 20 employees are covered; and in Wales, all public-sector employers must report annually and address the differences they find.

⁴⁹ Gender Equality in Trade Agreements Fontana (2016)

⁵⁰ <https://www.tuc.org.uk/research-analysis/reports/national/living-edge>

⁵¹ <https://www.ons.gov.uk/peoplepopulationandcommunity/culturalidentity/ethnicity/articles/whatdoesthe2011censustellusaboutthecharacteristicsofgypsyorishtravellersinenglandandwales/2014-01-21>

⁵² Trends in self-employment in the UK, Office of National Statistics, February 2018,

<https://www.ons.gov.uk/employmentandlabourmarket/peopleinwork/employmentandemployeetypes/articles/trendsinselfemploymentintheuk/2018-02-07>

⁵³ <https://www.gov.uk/government/statistics/personal-incomes-statistics-tables-31-to-311-for-the-tax-year-2014-to-2015>

Thus, women in England have weaker rights. **We recommend** that the regulations are strengthened to bring England up to the highest standards that at present only apply elsewhere in the UK.

Low paid work with limited progression

27. Residential care and social work employs 1.37 million women who make up 80% of the workforce; demographic projections indicate that the sector will continue expanding.⁵⁴ EU nationals (almost 5% of this sector) may leave in significant numbers during and after Brexit. Those working in such “low-skilled” service sectors (predominantly women), especially those with temporary or casual employment status (predominantly women) are most at risk post-Brexit of gradually eroding employment standards, for example employment protection and minimum wage regulations.⁵⁵

Employment rights and protections for women

28. There is considerable concern that employment rights for women are at risk after Brexit. Much of the legislation protecting women’s employment rights in the UK has its origins in the European Union or was strengthened by judgments made in the European Court of Justice.^{56,57}

29. The UK Government has committed to convert current EU legislation into domestic law in the first instance, through the European Union (Withdrawal) Bill, which grants Ministers wide-ranging powers to amend, repeal, or modify retained EU law and other domestic law, including primary legislation. While the stated purpose of the powers is to enable Ministers to make technical changes to the law to ensure the UK has a functioning statute book post-exit day, and not to make substantive policy changes,⁵⁸ Ministers will have powers to make substantive changes, including to the Equality Acts 2006 and 2010 and to employment law.

30. These powers, as well as the loss of a ‘backstop’ in EU law, mean that there is a real risk that the hard-won labour market rights of women, such as rights to unpaid parental leave, equal treatment and paid annual leave rights for part-time workers,⁵⁹ could be rolled back under a highly deregulated⁶⁰ labour market post-Brexit. Government’s likely intention is to repeal the Agency Workers Regulations - which will disproportionately affect women.⁶¹ The new Brexit Minister, Martin Callanan, made a speech to the European Parliament in 2012 in which he named the Agency

⁵⁴ Skills for Care (2017) The state of the adult social care sector and workforce in England <http://www.skillsforcare.org.uk/Documents/NMDS-SC-and-intelligence/NMDS-SC/Analysis-pages/State-of-17/State-of-the-adult-social-care-sector-and-workforce-2017.pdf>

⁵⁵ Andriescu, M. and Giles, L. (2017) Could a bad Brexit deal reduce workers’ rights across Europe? Work Foundation https://www.tuc.org.uk/sites/default/files/TUC_BrexitWorkersRights.pdf

⁵⁶ O’Brien, C. (2016). Bonfires and Brexterity: What’s next for women? <http://www.referendumanalysis.eu/eu-referendum-analysis-2016/section-8-voters/bonfires-and-brexterity-whats-next-for-women/>

⁵⁷ TUC (2016) UK employment rights and the EU. <https://www.tuc.org.uk/sites/default/files/UK%20employment%20rights%20and%20the%20EU.pdf>

⁵⁸ ‘Legislating for the United Kingdom’s withdrawal from the European Union’ (white paper), March 2017, 3.17

⁵⁹ TUC (2016) *Ibid.* at (16)

⁶⁰ Ford, M. (2016) *Workers’ Rights from Europe: The Impact of Brexit.* Legal opinion, TUC <https://www.tuc.org.uk/sites/default/files/Brexit%20Legal%20Opinion.pdf>

⁶¹ Ford (2016) *Ibid*

Workers' Directive as well as the Pregnant Workers' Directive as "barriers to actually employing people" which "we could scrap".⁶² Inside the EU, the UK government has a history of blocking progressive legislation (e.g. a proposal under the Pregnant Workers Directive for 20 weeks paid maternity and 2 weeks paid paternity leave⁶³) which does not bode well for progressive legislation once outside the EU. This scenario is particularly likely under a reversion to WTO rules. This might encourage a 'race to the bottom' where competing for foreign direct investment (FDI) of the kind that is dependent on cheap labour could incentivise a roll-back on workers' rights.⁶⁴

Women workers in global context

31. The UK was a key partner in the development of the SDGs which have a strong focus on the empowerment of women and girls.⁶⁵ Trade liberalisation associated with women's cheap labour has been used to cut costs and reduce working conditions to maintain export competitiveness⁶⁶ which does not benefit women in the longer term.⁶⁷ The UK Government has not committed that its trade deals ensure the equality and economic wellbeing of women in trading partner nations as well as in the UK. **We recommend** that the UK does make such a commitment.

Disabled women workers

32. Article 6 of the UNCRPD recognises that disabled women face multiple discrimination. In its 2013 concluding observations the CEDAW Committee repeated its concerns from previous concluding observations of 2008 (A/63/38, paras. 286 and 287) at the high unemployment rates of women with disabilities. Access to Work (ATW)⁶⁸ provides Government-funded support to the disabled to work, including provision of support workers. In 2015 a new cap on support was introduced,⁶⁹ so for example, deaf women have had their interpreter hours capped.⁷⁰ This is another example of the UK's regressive approach to rights. **We support** the recommendations made for a more effective scheme in Inclusion London's Report⁷¹ and specifically that ATW takes into account the added gender constraints for disabled women in their employment needs, including the higher safety risks and support in toileting (because of periods); ATW should not be gender neutral.

⁶² <https://politicalscrapbook.net/2017/10/mays-new-brexit-minister-wants-to-ditch-eu-laws-protecting-pregnant-women-and-vulnerable-workers/#more-67848>

⁶³ Plomien, A. (2016) The EU and Gender Equality: <http://blogs.lse.ac.uk/gender/2016/06/29/the-eu-and-gender-equality-better-off-in-or-out/>

⁶⁴ Andriescu, M. and Giles, L. (2017) *Ibid.*

⁶⁵ <http://www.unwomen.org/en/news/in-focus/women-and-the-sdgs/sdg-5-gender-equality>

⁶⁶ Fontana (2016) *ibid.* at (1)

⁶⁷ UNCTAD (2014) *Ibid.* at 19

⁶⁸ <https://www.gov.uk/government/publications/access-to-work-guide-for-employers/access-to-work-factsheet-for-employers>

⁶⁹ Access to Work grants awarded on or after 1 October 2015 are capped. Access to Work grants awarded will be capped from 1 April 2018. <https://www.gov.uk/government/publications/access-to-work-factsheet/access-to-work-factsheet-for-customers>

⁷⁰ Barriers to Work: A survey of Deaf and Disabled people's experiences of the Access to Work programme in 2015/2016 https://www.inclusionlondon.org.uk/wp-content/uploads/2017/10/Barriers-to-Work_InclusionLondon_Oct-2017-1.pdf

⁷¹ Inclusion London, Improving Access to Work, 2017

https://www.inclusionlondon.org.uk/wpcontent/uploads/2017/10/AccessstoWorkRecommendations_web.pdf

33. **We recommend** that the ATW is strengthened and that the UK (perhaps through its equality commissions) gather evidence on the different types of intersectional employment discrimination women face, fund legal advice centres and Citizens Advice Bureau so women can seek advice and support around employment discrimination and take action against employers who are not meeting Equality Act duties.

12 Healthcare

34. The legal duties under the Health and Social Care Act to reduce inequalities in access, outcomes, and experience of health services should be strengthened. This is especially important for implementing the SDGs for disadvantaged women, such as women with disabilities. **We recommend** that the Scottish policy which permits anyone living in Scotland legally and for a specific purpose, including asylum seekers refugees and other migrants, can register for NHS general medical services, should be applied across the UK.

35. The Local Government and Public Involvement in Health Act 2007 requires local authorities and local health services (Primary Commissioning Trusts) to produce a 'Joint Strategic Needs Assessment' of the health and wellbeing of their local community. The English city of Bristol offers a good example of comprehensive strategic analysis of women's health to inform NHS services. In 2013, the Mayor of Bristol signed the European Charter for Equality of Women and Men in Local Life on behalf of the City of Bristol. A Women's Commission was established to implement the Charter and to draw up an action plan to address areas of discrimination and disadvantage which women face. The Women's Health Task group was set up to tackle the priority of Health and is the reference group for their JSNA, prepared with women's organisations.⁷² This model pathway should be recommended good practice across the country.

36. The Bristol JSNA highlights *inter alia* women's greater vulnerability to mental health and gender-based violence. For example, the lifetime prevalence of domestic abuse among women with mental health problems ranges between 30%-60%;⁷³ mental ill-health amongst women in England is increasing; one woman in five has a common mental disorder, compared with one man in eight; young women between the ages of 16-24 are at high risk, and almost three times as likely (26%) to experience common mental health problems as their male contemporaries (9%). They also have higher rates of self-harm, post-traumatic stress disorder and bipolar disorder. There is a strong connection between mental health problems and gender-based violence: 84% of those experiencing the most extensive physical and sexual abuse are women, and of those, over half

⁷² Bristol Women's Health 2017 Joint Strategic Needs Assessment Chapter Public Health Bristol City Council with Bristol Women's Commission

<https://www.bristol.gov.uk/documents/20182/1655362/JSNA+Chapter+Women%27s+Health+%28V14%29/9024901c-46fe-e13a-a194-0260ed22a3c1>

⁷³ Howard et al (2009). Domestic violence and severe psychiatric disorders: Prevalence and interventions. *Psychological Medicine*, 40(6), 881–893

have a common mental disorder.⁷⁴ Women with severe mental health problems are 10 times more likely to experience assault than those without.⁷⁵ A significant proportion (between 45-74%) of women rough sleepers⁷⁶ report mental health issues. Alcohol and drug abuse is also significant.

37. The Government must implement the key recommendations from the Annual Report of the Chief Medical Officer 2014, published December 2015,⁷⁷ which deal specifically with women's health. In particular, Recommendation 4 that NHS Clinical Commissioning Groups and local authorities ensure that integrated specialist health and social care services are in place to meet referrals safely for sexual violence, other domestic violence, female genital mutilation, 'honour'-based violence, forced marriages and modern slavery. Among other things, this should mean that women-led community-based specialist support services should be funded.
38. Around 36% in the women's voluntary and community sector are involved in the provision of adult health and/or social care and support services. in terms of monetary cost savings and long-term health outcomes, savings to the NHS by the women's health sector are almost £.5bn per year.⁷⁸
39. **We call** for equal access to healthcare for all women (including transport, and interpreting services where needed) prioritising women with the poorest/expected poorest health outcomes and disadvantaged populations, through JSNAs and through commissioning women's voluntary and community services.
40. Identification and Referral to Improve Safety (IRIS) is a domestic violence and abuse (DVA) training support and referral programme for local doctors that has been evaluated as effective in a randomised controlled trial. It includes training, clinical enquiry, care pathways and an enhanced referral pathway to specialist domestic violence services. It is aimed at women who are experiencing DVA from a current partner, ex-partner or adult family member. IRIS also provides information and signposting for male victims and for perpetrators.⁷⁹
41. **We recommend** extending IRIS to include all forms of violence against women and implementing it as national scheme, with funding, for all primary health professionals.

⁷⁴ Scott & McManus 2016, Hidden Hurt: Violence, abuse and disadvantage in the lives of women. DMSS research for Agenda http://weareagenda.org/w_p-content/uploads/2015/11/Hidden-Hurt-full-report1.pdf

⁷⁵ Pettitt et al, 2013, At risk, yet dismissed: The criminal victimisation of people with mental health problems. London: Victim Support <https://www.victimsupport.org.uk/sites/default/files/At%20risk%2C%20yet%20dismissed%20-%20full%20report.pdf>

⁷⁶ Empowering Women Rough Sleepers (WRS) to Protect themselves from Violence on the Streets (Phase II) Moss & Singh University of Wolverhampton <https://ec.europa.eu/justice/grants/results/daphne-toolkit/en/file/3108/download?token=V7vFkq5T>

⁷⁷ Annual Report of the Chief Medical Officer, 2014 'The Health of the 51%: Women' <https://www.gov.uk/government/publications/chief-medical-officer-annual-report-2014-womens-health>

⁷⁸ Value of the Women's Voluntary and Community Sector Delivering Health Services, Women's health and equality consortium, 2017, <https://www.whec.org.uk/wp-content/uploads/2011/04/EXECUTIVE-SUMMARY.pdf>

⁷⁹ <http://www.irisdomesticviolence.org.uk/iris/>

Gypsies, Roma and Travellers⁸⁰

42. Access to healthcare can be impossible for women Travellers (treatment for illness and health screening and family planning, and healthcare by local GPs) because women do not have a postcode. There are examples of police officers accompanying nurses to unauthorized encampments to undertake health checks as part of the decision to evict. Women and girls are at risk because they will not discuss personal health problems in front of a stranger who is not a health professional – especially if that stranger is a male police officer. This can result in families /groups being evicted and some members being actively prevented from accessing what could be vital healthcare.

43. Romany Gypsies and Irish Travellers are legally recognised as ethnic groups, and in 2011, they were for the first time included in the UK national census. They are recognized by Government as experiencing the poorest health outcomes of any group in the UK. The Department of Health's Inclusion Health Board⁸¹ said

The adoption of the 2011 Census ethnic category classification...across all current NHS ethnicity data collections...would have a transformative effect on the capture of Gypsies/Irish Travellers in routine data collection, including ... where there is strong evidence that Gypsies/Irish Travellers are strongly disadvantaged. ISD Scotland has adopted the 2011 classification in the Scotland Data Dictionary.'

44. Despite this, the new census category has not been included beyond Scotland.⁸² We recommend that: the Department of Health should issue a national 'data change notice' to include Gypsies and Irish Travellers. We also recommend the explicit inclusion of women Gypsy/Traveller health needs in Joint Strategic Needs Assessments.⁸³

45. We are extremely concerned about migrant women's ability to access healthcare without fear of immigration enforcement/deportation. The climate created by posters in hospital waiting rooms about charging for treatment and being asked to produce proof of immigration status, can be very intimidating for vulnerable women. Further, this creates the potential for migrant women to be profiled and targeted, with their immigration status being used to prevent access to health services, even where this is not mandated by legislation. Some migrant women do not register with a GP because they are being asked for documents to demonstrate their

⁸⁰ This section draws on written evidence to the Women and Equalities Select Committee, 2016, by the National Alliance of Gypsy Traveller Roma Women

<http://data.parliament.uk/writtenevidence/committeeevidence.svc/evidencedocument/women-and-equalities-committee/tackling-inequalities-faced-by-the-gypsy-roma-and-traveller-communities/written/46101.html>

⁸¹ Aspinall, 2014, Inclusion Health Board, Hidden Needs: Identifying Key Vulnerable Groups in Data Collection, p. 11
https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/287805/vulnerable_gro_ups_data_collections.pdf

⁸² Traveller Movement note on inclusion of Gypsies and Irish Travellers in the NHS data dictionary March 2014
<http://www.travellermovement.org.uk/wp-content/uploads/2014/11/Traveller-Movement-note-on-inclusion-of-Gypsies-and-Irish-Travellers-in-the-NHS-data-dictionary-March-2014.pdf>

⁸³ http://www.gypsy-traveller.org/wp-content/uploads/2015/03/FFT_Inclusion-of-Gypsy-Traveller-health-needs-in-JSNA_FINAL.pdf

status and eligibility (many do not have access to these) despite the fact that GPs are not required to ask for proof of immigration status. Women are asked to provide this evidence at A&E, before being able to access health care, despite A&E services currently being free of charge regardless of whether the patient's normal residence is in the UK.⁸⁴

46. NHS Digital and the Home Office have a memorandum of understanding which allows for information sharing regarding persons who are suspected of immigration offences. This makes it more difficult for migrants to access health services to report domestic violence and other crimes and receive treatment. This may put their health and safety at serious risk. We note that the Health Select Committee has recently raised grave concerns about the nature of such information sharing for precisely this reason.⁸⁵

47. Under the National Health Service (Charges to Overseas Visitors) (Amendment) Regulations 2017, all secondary care services will now be chargeable and services will require payment in advance unless for emergency treatment. Some will be exempt from the charge, but not those supported by social services because they are destitute and have no recourse to public funds. This has serious implications for the ability of migrant women to safely disclose abuse in health settings, and again suggests a policy of prioritising immigration control over protection. Secondly, we have noticed an emerging local problem of migrants resorting to 'self-medicating' with medicines they have bought from unregulated suppliers (who are importing these medicines from India and elsewhere), because they are too frightened to access primary or secondary healthcare. Clearly this is dangerous not just for individuals but from a public health perspective.

48. In the UK, recent migrants, refugees and asylum seekers, and women who have difficulty reading or speaking English, have been identified as being at especially high risk of pregnancy-related deaths. Fewer than 30% of women who died and who received antenatal care, received the recommended level of care according to antenatal care guidelines (booking at 10 weeks or less and no routine antenatal visits missed). This highlights the association between maternal death and lack of antenatal care. Many of the migrant women who died had underlying health conditions which were not identified because they had not accessed routine antenatal care. Successive Confidential Enquiries have shown that women who died received disproportionately insufficient or no antenatal care, and that migrant women were particularly likely to receive less than the level of care recommended by the National Institute for Health and Care Excellence.⁸⁶

⁸⁴ Evidence from Southall Black Sisters: see Appendix B

⁸⁵ <https://www.parliament.uk/business/committees/committees-a-z/commons-select/health-committee/news-parliament-2017/mou-data-sharing-chairs-statement-17-19/>

⁸⁶ The Impact on Health Inequalities of Charging Migrant Women for NHS Maternity Care <https://www.whec.org.uk/wp-content/uploads/2011/04/ChargingReportMarch2017FINALcompressed.pdf>

49. **We recommend** that the Department of Health suspend charges for maternity care to overseas visitors to ensure vulnerable migrant women's access to all maternity care, and develop cost-benefit analysis into charging, taking the longer-term health of women and their children into account.

Brexit

50. The NHS will lose money through the loss of capital financing from the European Investment Bank, the rising cost of recruitment, and higher costs of pharmaceuticals and other medical products as a result of Brexit.⁸⁷

14 Rural Women

Appendix C provides a full case study of rural women in the North East with recommendations for action.

15 and 16 Equality before the law; Marriage and family life

51. Significant cuts across the justice system have severely impacted women in terms of both Articles 15 and 16, so as to render their separation in this shadow report unhelpful. The impact of the cuts on these articles is so significant that we have had to limit some of the submissions in the main report to recommendations only, but the full context can be found at Appendices A and B (BME/Migrant women), attached.

Women in Prison

52. In its previous Concluding Observations the Committee recommended the UK should:

review the policy of commissioning services wherever this may undermine the provision of specialised services for women.

(Para 21)

53. There is ample evidence, including most recently from Her Majesty's Inspectorate of Probation,⁸⁸ that funding for specialised women's services has been severely cut in the reorganisation and contracting out of probation services under the UK Government's Transforming Rehabilitation criminal justice reform programme. The combination of this and the introduction of a new 12 month post-custody statutory supervision period for short-sentenced prisoners has resulted in a high rate of women's recall to prison, with all the attendant problems this causes for women, their children and families. Despite its recognition in theory of the effectiveness of women's centres and holistic, trauma-informed services,

⁸⁷ How will Brexit affect health and health services in the UK? Evaluating three possible scenarios, Fahy, Nick et al, 2017, *The Lancet*, Volume 390, Issue 10107, 2110 - 2118

⁸⁸ <https://www.justiceinspectorates.gov.uk/hmiprobation/inspections/supplychain/> HMIP Thematic Inspection of Supply Chains, London April 2018

the government has failed to deliver a coherent strategy for sustainable funding of women's services.

54. Responding to Para 54 and 55 of the CEDAW Concluding Observations on women in prison, the UK Government claims in its Report that significant progress has been made in implementing the recommendations of the Corston report, but evidence suggests that progress has been uneven and halting, with a worsening of outcomes in some areas, including women's deaths in custody.

55. The UK still has one of the highest rates of women's imprisonment in Western Europe, with high rates of self-harm and deaths in custody evidence of the suffering this causes. There are nearly 4,000 women in prison in England and Wales – double the number in 1995 - with around 45% entering on remand.⁸⁹ BME women remain over-represented in prison.⁹⁰ 84% of women sentenced to imprisonment were convicted of a non-violent offence. Most of them are mothers. There were 30 deaths of women in custody between January 2015 – December 2016, two-thirds self-inflicted.⁹¹

56. The UK Government promised in a White Paper on Prison Safety and Reform (November 2016)⁹² to publish a strategy "to reduce the number of women offending and ending up in custody, including through early and targeted interventions," now deferred to June 2018. These delays undermine confidence in a consistent commitment to reform and whether funding and governance will be adequate for its implementation. In Scotland, the extension of a legal presumption against short sentences is a positive development but it has yet to be implemented. Nearly 90% of women sent to prison in Scotland received sentences of less than 12 months.

57. The revised Equal Treatment Benchbook⁹³ published by the Judicial College includes welcome guidance on the meaning of substantive gender equality but it is not clear how widespread its use is.

Court Closures

58. **We recommend** that further proposed court closures must be halted. Adequate court time must be available for private family law cases. Early advice under legal aid for housing and family and immigration cases must be reinstated to its pre LASPO levels, and all cases involving abuse and children must be publicly funded. Victims of domestic abuse must not be required to pay an unreasonable contribution to legal costs based on the (inaccessible) equity in a jointly-owned family before grant of legal aid. Financial eligibility for legal aid must be realistically related to affordability.

⁸⁹ <http://www.prisonreformtrust.org.uk/Portals/0/Documents/why%20focus%20on%20reducing%20women%27s%20imprisonment%20BL.pdf> Prison Reform Trust (February 2017)

⁹⁰ <http://www.prisonreformtrust.org.uk/Portals/0/Documents/Counted%20Out.pdf> (Counted Out, Prison Reform Trust, 2017)

⁹¹ Op cit, Why focus on reducing women's imprisonment, PRT 2017. Report on women's deaths in prison since 2007 by INQUEST is published on 1 May 2018.

⁹² Prison Safety and Reform, Ministry of Justice, 2016, Para 28

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/565012/cm-9350-prison-safety-and-reform-_print_.pdf

⁹³ <https://www.judiciary.gov.uk/wp-content/uploads/2018/02/equal-treatment-bench-book-february2018-v5-02mar18.pdf>

Cross examination of victims of DA by the perpetrator in Family Proceedings

59. **We recommend** that the recommendations of the Vulnerable Witness Working Group in their final report must be fully implemented. It should be recognised that cross examination of a victim by a perpetrator is detrimental to Art 15 rights and a continuation of abuse.⁹⁴

Eliminating VAWG

The Domestic Abuse Bill consultation

60. **We recommend** that the Istanbul Convention must be fully and immediately ratified without further prevarication or excuses. Implementation of the convention includes securing adequate women's specialist support services. All cuts to funding for women's services must be therefore be abandoned and funding restored. Refuge closures must be reversed, and the Government must ensure that there are sufficient refuge places. The proposals to leave funding of refuges to local government (whose resources have been significantly cut) must be abandoned and payment via central government through benefit payments must continue. A sustainable funding model for Rape Crisis centres must be developed.

61. PD12 J⁹⁵ must be fully implemented in family law proceedings concerning the protection of women and children from abusers.

62. Realistic measures to combat domestic abuse must be reconsidered. Civil measures must be supported and funded, rather than relying on the Police (who, the Government are well aware, do not have the budgetary resources) to provide adequate protection.

The Review of Legal Aid, Sentencing and Punishment of Offenders Act 2012 (LASPO)

63. **We recommend** that the review of LASPO⁹⁶ recently announced must be comprehensive, taking into account the damage that it is inflicting on the most vulnerable in society, and training made mandatory. Without a comprehensive legal aid system women will not be able to access justice.

BME women and equality before the law

64. **We call** for an urgent investigation of the experience of BME women and children in all parts of the justice system, and training across the system on harmful cultural practices.

⁹⁴Report of the Vulnerable Witnesses & Children Working Group, Judiciary of England and Wales, 2015, Para 14, <https://www.judiciary.gov.uk/wp-content/uploads/2015/03/vwcwg-report-march-2015.pdf>

⁹⁵ PD12 J is a legal practice direction on court orders for child contact with a parent or other family and there are allegations that a child or a party has experienced domestic abuse perpetrated by another party or that there is a risk of such abuse. https://www.judiciary.gov.uk/courts/procedure-rules/family/practice_directions/pd_part_12j

⁹⁶ <https://www.gov.uk/government/publications/post-implementation-review-of-laspo>

Women in the Criminal Justice System

65. **We call** for the recommendations of the Corston⁹⁷ and Lammy⁹⁸ reports to be fully implemented. Education must be undertaken at all levels of statutory services so that the impact of abuse is understood and that victims are not criminalised.

The experience of victims in cases of rape and sexual assault

66. **We recommend** that victims of rape and sexual assault have the right to attend and be represented by publicly-funded advocates to argue against disclosure of previous history of any kind which is essentially more prejudicial than probative (also see paragraph 100).

Assault of women in Yarl's Wood detention Centre⁹⁹

67. Yarl's Wood is a national disgrace;¹⁰⁰ the then HM Inspector of Prisons reported in 2015 that 'Yarl's Wood is rightly a place of national concern'. **We recommend** it be closed. Monitoring of those with vulnerable immigration status must be done humanely in the community.

Women's legal action to preserve human rights opposed by the State.

68. It is the job of Government, not the victims of crime, to take action to protect society from dangerous offenders. **We recommend** that legal aid be made available for women to take essential legal action to enforce their rights. Judicial review must be properly funded to allow such serious test cases to be taken as appropriate.

Supporting BME/Migrant women and Visa abuse

69. **We recommend** that women must be able to access the Domestic Violence Discretionary Visa Concession,¹⁰¹ regardless of visa status.

⁹⁷ Building A Safe, Just And Tolerant Society: A Report By Baroness Jean Corston Of A Review Of Women With Particular Vulnerabilities In The Criminal Justice System, Home Office, 2007

<http://webarchive.nationalarchives.gov.uk/20130206102659/http://www.justice.gov.uk/publications/docs/corston-report-march-2007.pdf>

⁹⁸ <https://www.gov.uk/government/publications/post-implementation-review-of-laspo>

⁹⁹ Response by the Home Office minister responsible for Yarl's Wood following a Parliamentary question answered on 28 June 2016 '..six allegations of sexual assault made by detainees against staff at Yarl's Wood immigration removal centre between 2013 and 2015... In the same period there have been two Home Office PSU investigations into allegations of sexual assault made by detainees against staff in other immigration removal centres...Information on the number of women who have been deported following an allegation of sexual abuse or rape while in detention is not held centrally and could only be provided at disproportionate cost.' <https://www.parliament.uk/business/publications/written-questions-answers-statements/written-question/Commons/2016-06-20/40860>

¹⁰⁰ Extract from HM Inspectorate of prisons report of an unannounced inspection, 2015: 'The Home Office's own policy states pregnant women should not normally be detained, but 99 had been held in 2014. Only nine of these women had eventually been removed from the UK. Rule 35 reports should protect detainees who have been tortured or who are extremely vulnerable in other ways from being detained. The Rule 35 reports we examined at Yarl's Wood were among the worst we have seen. All were handwritten and many were difficult to read, lacked detail and were perfunctory. Some responses were dismissive.' <https://www.justiceinspectorates.gov.uk/hmiprisons/wp-content/uploads/sites/4/2015/08/Yarls-Wood-web-2015.pdf>

Urgent legislation is required to allow women taken abroad to return to the UK to access justice, particularly in relation to their children.

Protecting women from informal Community Arbitration

70. We call for the Marriage Act 1949 to be revised to deem Islamic marriages legal marriages for the purposes of the Matrimonial Causes Act 1973.

Increasing Judicial Diversity and involvement of women in the legal profession.

71. **We recommend** greater efforts to recruit women including BME and working-class women be made including the introduction of specialist women-only intakes at all level of the judiciary. Proposals to increase the length of the court day must be abandoned as discriminatory.

Care Leavers

72. Girls in state care are at increased risk of teenage pregnancy.¹⁰² They are also much more at risk of their child/ren being temporarily or permanently removed:¹⁰³ a quarter of mothers of children who are placed for adoption grew up in state care. Furthermore, they are less likely than other mothers to access legal help to prevent separation from their children.¹⁰⁴ UK policy on child protection has become increasingly 'risk averse' and austerity has resulted in drastic cuts to those support services that help to keep young mothers and their children together.¹⁰⁵ Access to independent advocacy support is vital in ensuring this vulnerable and stigmatised group can access specialist community care and public law advice to protect their fundamental human rights, rather than access legal help only if child care proceedings in the family courts commence, by which stage their family rights may have already been compromised.¹⁰⁶ Failure to address these issues has significant intergenerational impacts on the birth parents and their children's long term emotional, psychological and physical well-being.¹⁰⁷

Violence against women and girls (VAWG)

¹⁰¹ Destitute domestic violence (DDV) concession, 2018, Home Office
https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/679269/victims-of-domestic-violence-and-abuse-DDV-concession-v1_0.pdf

¹⁰² Haydon, D. (2003) Teenage pregnancy and looked after children/care leavers; Resource for teenage pregnancy coordinators. London: Barnardo's. Fallon, D. & Broadhurst, K. (2015) Preventing Unplanned Pregnancy and Improving Preparation for Parenthood for Care Experienced Young People. Coram, University of Manchester, Lancaster University

¹⁰³ Ibid; Jackson, S. & Simon, A. (2005). The costs and benefits of educating children in care. In E. Chase, A. Simon & S. Jackson (Eds.) In care and after: A positive perspective (pp.44–62). London: Routledge

¹⁰⁴ Roberts, L., Meakings, S. et al (2017) Care Leavers and their children placed for adoption. Children & Youth Services Review Vol. 79 (355-361)

¹⁰⁵<http://www.communitycare.co.uk/2018/02/07/clear-evidence-links-deprivation-expenditure-quality-childrens-services/>
¹⁰⁶<http://www.communitycare.co.uk/2018/02/09/fostering-stocktake-brings-back-dangerous-ideas-exemption-clause/>

¹⁰⁷ Featherstone et al (2018) The role of the social worker in adoption - ethics & human rights : An Enquiry
<https://www.basw.co.uk/adoptionenquiry/docs/The%20Role%20of%20the%20Social%20Worker%20in%20Adoption%20Enquiry.pdf>

73. In July 2015, the UN Human Rights Committee recommended that the UK needs to strengthen measures to prevent VAWG.¹⁰⁸

Incidence levels¹⁰⁹

74. The Crime Survey for England and Wales (CSEW) is the preferred measure of trends in the prevalence of sexual assault since this is unaffected by changes in police activity, recording practices and propensity of victims to report such crimes.

Domestic violence¹¹⁰

75. The CSEW estimates for year ending March 2017 that 26% of women and 15% of men aged 16 to 59 had experienced some form of domestic abuse since the age of 16, equivalent to an estimated 4.3 million female and 2.4 million male victims. An estimated 7.5% of women (1.2 million) and 4.3% of men (713,000) experienced domestic abuse in the last year. Women were more likely than men to have experienced all types of domestic abuse in the last 12 months, with the exception of non-sexual family abuse, where the difference was non-significant. The largest difference between men and women is in sexual assault (including attempts) by a partner. Women were five times as likely as men to have experienced this in the last year, and eight times as likely to have experienced it since the age of 16 (6.4% compared with 0.8%).

76. While men are at risk of, and do experience, domestic abuse, women experience more repeated physical violence, more severe violence, much more sexual violence, more coercive control, more injuries and more fear of their partner.¹¹¹

77. People from a BME or faith background experience domestic abuse at a similar rate as the general population. But when people from a BME or faith background do experience domestic abuse, they face significant barriers accessing support or leaving an abusive situation and are more likely to stay in those situations for longer before seeking help.¹¹²

Sexual violence

78. The CSEW for year ending March 2017 shows that 20% of women and 4% of men have experienced some type of sexual assault since the age of 16, equivalent to an estimated 3.4 million female victims and 631,000 male

¹⁰⁸ Concluding observations on the seventh periodic report of the United Kingdom of Great Britain and Northern Ireland 2015 International Covenant on Civil and Political Rights,

http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CCPR/C/GBR/CO/7&Lang=En

¹⁰⁹ This section draws on *Sexual offences in England and Wales: year ending March 2017*, Office of National Statistics <https://www.ons.gov.uk/peoplepopulationandcommunity/crimeandjustice/articles/sexualoffencesinenglandandwales/yearendingmarch2017#how-are-sexual-offences-defined-and-measured>

¹¹⁰<https://www.ons.gov.uk/peoplepopulationandcommunity/crimeandjustice/articles/domesticabusefindingsfromthecrimesurveyforenglandandwales/yearendingmarch2017#which-groups-of-people-are-most-likely-to-be-victims-of-domestic-abuse>

¹¹¹ National Institute for Health and Care Excellence, Domestic violence and abuse: how health services, social care and the organisations they work with can respond effectively, 2014.

¹¹² Thiaria, R & Roy, S. *Vital Statistics: The experiences of Black, Asian, Minority ethnic and Refugee women and children facing abuse and violence*. Imkaan, 2010.

victims. An estimated 3.1% of women (510,000) and 0.8% of men (138,000) aged 16 to 59 experienced sexual assault in the last year; no significant change from the previous year.

Trends

79. The prevalence of domestic abuse in the last year among women decreased for the year ending March 2017 (7.5%) compared with the year ending March 2012 (9.1%). There has been no significant change in the prevalence of sexual assault measured by the CSEW (around 2.0% in the year ending March 2017 survey). Around 5 in 6 victims (83%) did not report their experiences to the police. There has been an increase in sexual offences recorded by the police, thought to be driven by improvements in recording practices and a greater willingness of victims to come forward to report such crimes, including non-recent victims.

80. Child sexual abuse impacts girls more than boys and is increasing, particularly online: since 2009 there has been a 298% increase in the number of police-recorded indecent image offences in the UK.¹¹³

Brexit

81. Legislation on VAWG has outcomes for women in the economy, as users of public services as well as from the perspective of women's access to justice more widely, and for the realisation of women's human rights. Many of the advances made in VAWG originated in the EU, for example the Victim's Directive.¹¹⁴ Some progressive legislation has originated in the UK such as the Violence against Women, Domestic Abuse and Sexual Violence (Wales) Act 2015,¹¹⁵ but there are concerns that Brexit may signal a departure for the UK from the progressive standards promoted across the EU. Many research projects of influence in the UK concerned with VAWG have been funded through the European Union (e.g. the DAPHNE Programme) and there is no indication of whether these may be replaced. Similarly, EU Social Funds support large numbers of voluntary organisations providing support to women and there is no clear information about what will replace them.

Femicide

82. In 2016 the Femicide Census¹¹⁶ found that 69% of women were killed by a current or former intimate partner, 7.1% were killed by a male family member, 12.4% were killed by a man they knew, and 7.9% by a stranger. 75.2% were killed at their own home or the home they shared with the perpetrator. 77.4% of women killed by their ex-partner or ex-spouse were killed within the first year following separation.

¹¹³ How safe are our children? 2017 The most comprehensive overview of child protection in the UK, NSPCC, <https://www.nspcc.org.uk/services-and-resources/research-and-resources/2017/how-safe-are-our-children-2017/>

¹¹⁴ <http://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1421925131614&uri=CELEX:32012L0029>

¹¹⁵ <http://www.legislation.gov.uk/anaw/2015/3/contents/enacted>

¹¹⁶ The Femicide Census is a database of over one thousand women killed by men in England and Wales since 2009 <https://www.womensaid.org.uk/what-we-do/campaigning-and-influencing/femicide-census/>

83. **We recommend that** PD12 J¹¹⁷ must be fully implemented in family law proceedings concerning the protection of women and children from abusers.

Image-Based Sexual Abuse (including ‘revenge porn’)

84. In 2015, the Criminal Justice & Courts Act introduced the new criminal offence of non-consensual sharing of private, sexual images (often referred to as ‘revenge porn’). This Act needs reform. The current law:

- does not cover threats to distribute private, sexual images (commonly part of coercive behaviour in abusive relationships);
- applies only where there is proof that the direct and specific motivation was to cause distress to the victim - not where the motive is financial, sexual, or for a ‘laugh’;
- does not cover photoshopped images;
- does not cover the creation of images, such as in cases of ‘upskirting’; and
- is not defined as a sexual offence, so carries no automatic right to anonymity for those reporting.¹¹⁸

85. ‘Up-skirting’ is not adequately covered by the law in England¹¹⁹ and the Government has so far refused to reform it. The criminal offence of outraging public decency can be used to prosecute ‘up-skirting’ but does not cover all situations, while the offence of voyeurism only applies where a person is in a private place (toilet, changing room) and where the motive is sexual gratification; it focuses on the offence caused to members of the public, rather than on the harm to victims; this law is not well known to either victims or police and prosecuting authorities hindering reporting and prosecutions; and there is no automatic anonymity for victims reporting this offending conduct. The Government has rejected calls to extend the law on image-based sexual abuse or reform the law on ‘up-skirting’.^{120 121}

86. **We recommend** reforming the law, renaming ‘revenge porn’ as ‘image-based sexual abuse’ rather than to better reflect the nature and harms of this abuse; extend the law to cover all forms of the non-consensual creation and/or distribution of image-based sexual abuse, including photoshopped images and the new ‘deepfake’ technology; threats to create or distribute private, sexual images; creation of images, such as ‘upskirt’ images; and all motives for these forms of abuse, not being limited to either direct intention to cause distress or sexual gratification; and finally recognises this abuse as a form of sexual offence, thereby drawing links

¹¹⁷ Practice Direction 12j - Child Arrangements & Contact Orders: Domestic Abuse And Harm

https://www.justice.gov.uk/courts/procedure-rules/family/practice_directions/pd_part_12j

¹¹⁸ McGlynn, Rackley, Houghton (2017). Beyond ‘Revenge Porn’: The Continuum of Image-Based Sexual Abuse. *Feminist legal studies* 25(1): 25-46. <https://link.springer.com/article/10.1007/s10691-017-9343-2>

McGlynn, Rackley (2017). Image-Based Sexual Abuse. *Oxford Journal of legal Studies* 37(3): 534–561. <https://academic.oup.com/ojs/article/37/3/534/2965256?guestAccessKey=cdabc364-65e7-4741-aa92-b581e27bed86>

¹¹⁹ McGlynn & Rackley, 2017, ‘Why upskirting needs to be made a sex crime’, *The Conversation*, 15 August 2017 <https://theconversation.com/why-upskirting-needs-to-be-made-a-sex-crime-82357>

¹²⁰ Slawson, ‘Make misogyny a hate crime and ‘upskirting’ illegal, UK report recommends’, *Guardian* 23 January 2018 <https://www.theguardian.com/lifeandstyle/2018/jan/23/make-misogyny-a-hate-and-upskirting-illegal-uk-report-recommends>

¹²¹ Letter from Karen Bradley MP, Minister for Preventing Abuse, Exploitation and Crime, Ministry of justice, to Alistair Carmichael MP, 30 June 2016, copy available at: <https://claremcglynn.com/academic-work/centre-for-gender-equal-media/anonymity-campaign/>

between all forms of sexual violence, and extending automatic anonymity to all complainants.

Inadequate restrictions on sexual history evidence in rape trials

87. The current law (sections 41-43 of the Youth Justice and Criminal Evidence Act 1999) does restrict the use of sexual history evidence in rape trials, but recent case law and research¹²² has demonstrated the inadequacies of the current framework. The current law, by permitting irrelevant sexual history evidence to be admitted, risks distorting the effective administration of justice, as well as subjecting complainants to grievous breaches of privacy. In particular:

- the current law, as interpreted in *R v Ched Evans* [2016] EWCA Crim 452, is likely to lead to greater use of sexual history evidence in rape and sexual offence trials as a very broad interpretation was given to admissible 'similarity' evidence;¹²³
- evidence has shown that the procedural safeguards are often not followed, thereby permitting sexual history evidence in trials without prior judicial approval; and
- sexual history evidence is permitted to be used to both support a claim of consent as well as a defence of belief in consent, contrary to practice in many other jurisdictions.

88. The Government has refused to reform the law, arguing that it appropriately balances the rights of defendants and complainants, based on a review of a sample of selected prosecution case files.¹²⁴ Regrettably, this review is unreliable because of methodological flaws.¹²⁵

89. **We recommend** comprehensive research into the use and effect of sexual history evidence in rape trials to inform policy changes; review of the current law to:

- Strengthen procedural requirements before sexual history evidence is admitted;
- Prohibit the use of sexual history evidence to demonstrate consent or belief in consent;
- Exclude 'similar' sexual history evidence unless demonstrable pattern of highly unusual and distinctive sexual behaviour;
- Raise the threshold for admitting evidence such that it is only permitted where it has significant probative value that is not substantially outweighed by the risk of prejudice; and
- Grant legal representation to complainants where sexual history evidence is in issue.

Police use of 'out-of-court' resolutions for domestic abuse

90. Every police force in England, Wales and Northern Ireland has used restorative justice/community resolutions to respond to domestic abuse, for

¹²² McGlynn (2017). Rape Trials and Sexual History Evidence: reforming the law on third party evidence. *Journal of Criminal Law* 81(5): 367-392. <http://journals.sagepub.com/doi/full/10.1177/0022018317728824>

McGlynn (2018). Challenging the law on sexual history evidence: a response to Dent and Paul. *Criminal Law Review* 2018(3): 216-228. <https://claremcglynn.files.wordpress.com/2018/02/mcglynn-challenging-section-41-february-2018.pdf>

McGlynn, Rape Trials and Sexual History Evidence (Policy Briefing) <https://claremcglynn.files.wordpress.com/2017/09/sexualhistoryevidence-briefing-mcglynn-august-2017.pdf>

¹²³ Rape Trials and Sexual History Evidence Reforming the Law on Third-Party Evidence McGlynn The *Journal of Criminal Law* Volume 81 issue 5, pages: 367-392, September 2017 <http://journals.sagepub.com/doi/full/10.1177/0022018317728824>

¹²⁴ Ministry of Justice, Limiting the use of complainants' sexual history evidence in sexual offence trials, 14 December 2017, <https://www.gov.uk/government/publications/limiting-the-use-of-complainants-sexual-history-in-sexual-offence-cases>

¹²⁵ McGlynn 'Why laws on sexual history evidence still need reform', Huffington Post, 17 December 2017 (detailing problems with Government review) http://www.huffingtonpost.co.uk/entry/why-laws-on-sexual-history-evidence-still-need-reform_uk_5a33b187e4b0e1b4472ae56d

example in at least 5,625 cases flagged as domestic violence during 2014.

¹²⁶

91. This was mostly done informally by officers 'on the street,' as an alternative to prosecution, not only in the context of 'low-level offences' but also for serious crimes. The police response included actions such as 'words of advice given' and 'note signed to effect that offender will behave'—despite both the National Police Chief's Council and the College of Policing cautioning against these practices. The House of Commons Select Committee on Justice¹²⁷ recommended that street level restorative justice/community resolutions should not be used in cases of domestic abuse. The Government agrees and has said that the 'Ministry of Justice work with police forces to ensure officers have proper guidance to avoid using restorative justice in inappropriate circumstances'.¹²⁸

92. **We recommend** that the Government proscribe 'out-of-court' resolutions of domestic abuse, and to ensure training and guidance for officers. VAWG needs to be addressed by a 'whole pathway' multi-agency approach that meets the individual needs of victim/survivors, their families, and perpetrators.

Coercive Control

93. Evaluation¹²⁹ indicates that the new criminal offence of controlling/coercive behaviour (Section 76 of the Serious Crime Act) is inadequate, and as this is a form of gender-based violence it has a disproportionate, harmful effect on women.

94. The offence excludes coercive control outside an ongoing intimate/family relationship, or where connected parties do not live together, such as ex-partners, despite extensive evidence of coercive control post-separation. Home Office crime recording legislation states that this offence should be recorded over crimes of serious violence. However, coercive control is categorised as a crime involving 'violence against the person without injury' so this recording practice (which directs police resources and knowledge of domestic abuse) systematically conceals the physical violence experienced by women. Use of the law is very low and geographically

¹²⁶ McGlynn, Westmarland, Johnson (2017). 'Under the radar: the widespread use of 'Out of Court resolutions' in policing domestic violence and abuse in the United Kingdom' British Journal of Criminology 58(1): 1-16.

<https://academic.oup.com/bjc/article/58/1/1/3058237>

Westmarland, Johnson, McGlynn (2017) Policing domestic abuse: what are out-of-court resolutions and when are they used? (Policy Briefing) <https://www.dur.ac.uk/resources/sass/research/briefings/ResearchBriefing17-PolicingDomesticAbusewhatareoutofcourtresolutionsandwhenaretheyused.pdf>

¹²⁷ House of Commons Justice Committee, Restorative Justice, 4th Report of Session 2016-2017, HC 164, 1 Sept 2016, para 33 <http://www.parliament.uk/business/committees/committees-a-z/commons-select/justice-committee/publications/?type=&session=28&sort=false&inquiry=2474>

¹²⁸ Ministry of Justice, Government response to the Justice Committee's Fourth Report of Session 2016-17: Restorative Justice, Cm 9343, November 2016 <https://www.parliament.uk/documents/commons-committees/Justice/justice-committees-fourth-report-goverment-response.pdf>

¹²⁹ <http://whatworks.college.police.uk/Research/Research-Map/Pages/ResearchProject.aspx?projectid=608> is completed; full publication is forthcoming; preliminary findings are available here:

<https://n8prp.org.uk/researching-police- responses-to- coercive-control/> Forthcoming research: Barlow, Johnson, (2018)

'Counting Coercive Control: Concerns and implications for the representation of gender-based violence and abuse in police recorded crime data', Journal of Criminology and Criminal Justice. (Under review), Barlow, Johnson (2018) Police Responses to Coercive Control. (Policy Briefing)

patchy, and has a particularly low solved rate, indicating issues with police identification, understanding and recording of coercive control; there are significant issues with current police investigation and prioritisation of these offences, compared to other types of crime. Police forces got no extra funding or training to implement the new law. **We recommend** extending the law to cover ex-intimate partner relationships (regardless of residential status), improve crime recording practices so that serious physical violence experienced by women is no longer hidden, and extra financing and training to the police.

Secure provision of specialist, women-led support services

95. It is clear that the demand for specialist support services for women who have suffered from violence far outstrips supply. On just one day this year, 94 women and 90 children were turned away from refuge, while 60% of all referrals to refuges in 2016/17 were declined.¹³⁰ Rape Crisis England and Wales currently has more than 6,000 women and girls on its waiting list, which can last for up to 12 months.
96. **We call** for funding for provision of specialised services for women (including BAME, disability, LGB&T, older) to be ring-fenced nationally to reflect the National Statement of Expectations,¹³¹ proportionate to the specific needs of women, including women in rural areas.¹³² Without this cuts to services will continue. Funding for community empowerment work (e.g. on FGM), including training for community members, should also be ringfenced nationally.¹³³ Funding for effective male perpetrator and bystander work in all local areas is required to reduce male violence against women.¹³⁴

Access

97. All services must provide adequate access to non-English speakers, disabled women, equalities groups.¹³⁵ Local Authority Council Housing Banding systems must reflect the need for women to move on from refuges in a timely manner.¹³⁶ Access to refuge provision should be guaranteed for all women e.g. disabled women, and supported housing funding must cover this.¹³⁷

Sexual harassment

98. Sexual harassment is pervasive. A survey¹³⁸ of over 6000 British adults in 2017 found that 40% of women had experienced some form of sexual

¹³⁰ Women's Aid Federation England Annual Survey 2017 <https://www.womensaid.org.uk/refuges-send-sos-response-governments-proposed-supported-housing-funding-plans/>

¹³¹ <https://www.gov.uk/government/publications/violence-against-women-and-girls-national-statement-of-expectations>

¹³² <https://www.thebureauinvestigates.com/stories/2017-10-16/a-system-at-breaking-point>

¹³³ <http://forwarduk.org.uk/wp-content/uploads/2017/03/Forward-Bristol-Community-Booklet-FINAL-Web.pdf>

¹³⁴ <http://www.bristol.ac.uk/primaryhealthcare/researchthemes/reprovide/group-intervention-for-men/> and <https://www.nice.org.uk/news/blog/bystander-interventions-a-new-approach-to-reduce-domestic-violence-in-universities>

¹³⁵ https://www.gla.ac.uk/media/media_394354_en.pdf and <https://www.theguardian.com/voluntary-sector-network/2017/dec/16/hidden-domestic-abuse-migrant-women>

¹³⁶ <https://www.bristolpost.co.uk/news/bristol-news/victims-domestic-abuse-go-straight-4562>

¹³⁷ <https://www.womensaid.org.uk/refuges-send-sos-response-governments-proposed-supported-housing-funding-plans/>

¹³⁸ <http://www.comresglobal.com/polls/bbc-sexual-harassment-in-the-work-place-2017/>

harassment in the workplace. A poll¹³⁹ in 2016 found that 64% of women had experienced sexual harassment in public places. Another survey in Bristol found that 98% of harassers were male and 92% of respondents were female; 81% of people had not reported the harassment they experienced to the police.¹⁴⁰ A survey¹⁴¹ in 2018 found that 57% of women university students or recent graduates had been sexually harassed. In the 2017 survey¹⁴² by Girlguiding, 64% of girls aged 13 and over said they had experienced sexual harassment at school in the past year - an increase of 5% since the 2014 survey.¹⁴³

99. In 2012 an online project to document women's and girls' experience, Everyday Sexism,¹⁴⁴ began in the UK. In 2017 the revival of Tarana Burke's #MeToo movement led to multiple allegations, increasing awareness of the extent to which men in the UK - especially powerful or well-regarded men - have been able to engage repeatedly and with impunity in sexual harassment against women. **We recommend** the development in workplaces of bystander training programmes and of sound reporting protocols that signpost victims to independent, specialist or specially trained support, and regulation to prevent the workplace practice of silencing victims through non-disclosure agreements.

100. The UK Home Office has recognised in its VAWG strategy¹⁴⁵ the importance of encouraging local areas to keep women and girls safe in the night-time economy as well as on public transport, having worked with British Transport Police on a report and campaign "Report it to stop it"¹⁴⁶ to encourage bystander intervention and increased reporting. The Strategy also commits to supporting the development of bystander programmes (p.57) which can be effective for the prevention of sexual harassment and for culture change. In Scotland, the Equally Safe Delivery Plan 2017-2021¹⁴⁷ includes the development of a pilot Equally Safe accreditation scheme for employers to encourage best practice on tackling gender based violence in the workplace as well as measures to prevent harassment and abuse in schools, colleges and universities. However, even when sexual harassment is identified within VAWG prevention strategies, too often the guidance is not sensitive to the specific features of sexual harassment as a form of VAWG distinct from other forms of harassment or bullying. This weakens their effectiveness.

101. Surveys¹⁴⁸ reveal that the women most likely to experience sexual harassment at work are in insecure jobs: in zero-hours contracts or the so-

¹³⁹ <http://www.stopstreetharassment.org/2016/03/uknationshstudy/>

¹⁴⁰ <http://www.itv.com/news/westcountry/2017-10-16/avon-somerset-police-to-officially-recognise-gender-based-hate-as-a-crime/>

¹⁴¹ <https://revoltsexualassault.com/wp-content/uploads/2018/03/Report-Sexual-Violence-at-University-Revolt-Sexual-Assault-The-Student-Room-March-2018.pdf>

¹⁴² <https://www.girlguiding.org.uk/globalassets/docs-and-resources/research-and-campaigns/girls-attitudes-survey-2017.pdf>

¹⁴³ Girlguiding's Girls' Attitudes Survey 2017 found 64% of girls aged 13-21 had experienced sexual violence or sexual harassment at school or college in the past year

¹⁴⁴ <https://everydaysexism.com/>

¹⁴⁵ https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/522166/VAWG_Strategy_FINAL_PUBLICATION_MASTER_vRB.PDF (p.39)

¹⁴⁶ <https://tfl.gov.uk/travel-information/safety/report-it-to-stop-it>

¹⁴⁷ <http://www.gov.scot/Resource/0045/00454152.pdf>

¹⁴⁸ http://www.comresglobal.com/wp-content/uploads/2017/12/BBC-sexual-harassment_FINAL_v3.pdf

called ‘gig economy’. Legislation prohibits victimisation of those complaining of sexual harassment, but few complain, because they are vulnerable inasmuch as they have fewer labour rights. Much workplace sexual harassment is perpetrated by third parties, yet in 2013 the Government repealed Section 40 of the Equality Act, which held employers potentially liable for third party harassment. **We support** the Fawcett Society Sex Discrimination Law Review recommendation¹⁴⁹ that this legislation should be reintroduced and strengthened. Some police forces record misogyny as a hate crime,¹⁵⁰ raising awareness of the seriousness and impact of sexual harassment; we recommend that this should be rolled out across England.

No recourse to public funds

102. Research undertaken by Women’s Aid¹⁵¹ which considered the findings from their ‘No Woman Turned Away’ project (commissioned to provide extra support to women trying to access refuges) found that nearly 10% of women refused refuge spaces were refused because they had no recourse to public funds. Almost half of the women supported by the project were BME for whom there is very limited specialist refuge provision available (29 refuges in the whole country, mainly concentrated in London, with only 51% of all refuges having access to an interpreter).

103. Previously refuges would offer at least one space to a woman with insecure status, but as many refuges have been taken over by either housing associations or other types of charities, they lack the skills to support women facing domestic violence. They are treated as homeless, rather than as victims of domestic violence whose problems are compounded by other related matters. The demise and de-skilling of the refuge sector is therefore a serious problem.

Homeless women and violence¹⁵²

104. Most women rough sleepers (WRS) are invisible in homeless headcounts and do not engage with outreach services because they ‘sofa surf,’ ‘exchange’ sexual favours for a bed for the night or walk the street during the night and bed down during the day when they feel it is safer. In a survey, most of the women were between 21 – 30 years old. 31% slept rough as a result of violence, and had been pushed, grabbed, had things thrown at them, been beaten up or raped whilst living on the street. The types of violence that WRS have reported included forced prostitution,

¹⁴⁹ <https://www.fawcettsociety.org.uk/Handlers/Download.ashx?IDMF=e473a103-28c1-4a6c-aa43-5099d34c0116>

¹⁵⁰ <http://www.itv.com/news/westcountry/2017-10-16/avon-somerset-police-to-officially-recognise-gender-based-hate-as-a-crime/>

¹⁵¹ Nowhere to Turn, Women’s Aid Federation England, 2017 <https://1q7dqy2unor827bqjls0c4rn-wpengine.netdna-ssl.com/wp-content/uploads/2017/07/NWTA-Full-report.pdf>

¹⁵² This section draws on Empowering Women Rough Sleepers (WRS) to Protect themselves from Violence on the Streets (Phase II) Moss & Singh University of Wolverhampton <https://ec.europa.eu/justice/grants/results/daphne-toolkit/en/file/3108/download?token=V7vFkq5T>

rape, sexual assault, domestic violence and trafficking. There was a general view that unscrupulous and controlling men see women as a commodity. 28% said they had entered relationships with men as a form of security on the street; 32% said they were involved in prostitution; 35% had suffered domestic abuse and 44% abused alcohol – of this number 60% did this daily. 37% reported mental health problems. WRS are increasingly illegal immigrants, care leavers, low paid workers unable to cope financially, and overseas students who initially came to study.

105. WRS needed more access to safe houses; there should be more funding for services and more accommodations generally. Best practice was described as having time to listen and give one-to-one support, employing ex-clients, having all services under one roof, taking a holistic approach to long-term support, and having an open-door policy. Challenges for the future included further funding cuts (77%), loss of specialist staff, welfare reforms and having to bid for funding.

106. Many children are disconnected from their rough sleeping mothers. Approximately 60% and 90% of WRS had children but the majority were not living with them despite wishing to be reconnected.

Disability and VAWG¹⁵³

107. Women with a long-term illness or disability are more likely to be victims of sexual assault in the last 12 months than those without (5.3% compared with 2.7%). There was no significant difference among men (1.0% compared with 0.8%). Disabled women are significantly more likely to experience domestic abuse than disabled men and experience more frequent, more severe domestic abuse than disabled men.¹⁵⁴

108. As noted throughout this report, data on women's experiences are limited, and particularly intersectional data. There is little research available on disabled women's experience of violence over the last four years. **We recommend** that annual surveys be undertaken, highlighting disabled women's experiences and needs, and the adequacy of both statutory services and women's specialist support services.

109. Disabled people who experience domestic abuse have specialised care needs. Some people with physical impairments have more complex needs for accessible accommodation and transport, assistance with personal care or sign language interpreters. Research from 2010, which still seems to reflect women's experience, shows that domestic violence services for disabled women are patchy and sometimes minimal, with many areas of England have no accessible domestic violence services at all. In a survey dating back to 2007, accessible specialised services were

¹⁵³ Sexual offences in England and Wales: year ending March 2017

<https://www.ons.gov.uk/peoplepopulationandcommunity/crimeandjustice/articles/sexualoffencesinenglandandwales/yearendingmarch2017#which-groups-of-people-are-most-likely-to-be-victims-of-sexual-assault>

¹⁵⁴ Disability and domestic abuse: Risk, impacts and response, Public-health England, 2015, page 4, https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/480942/Disability_and_domestic_abuse_topic_overview_FINAL.pdf

limited: 49% had full wheelchair access, 38% offered some form of specialist service to disabled women, 17% had services for visually impaired, and only 13% of refuges provided (or had access to) temporary personal care assistants.¹⁵⁵

110. The lack of domestic and sexual violence services for disabled women is particularly concerning, considering they have a greater need of such services. Effective domestic abuse services for disabled people should be accessible and barrier-free. This includes providing:

- accessible transportation
- personal care assistants
- lifts, ramps, bathroom and kitchen adaptations, smooth floor surfaces,
- continuous handrails, colour-contrasted environments
- communication assistance, sign language interpretation, email and text phones
- for helplines, flashing light alarms, vibrating pillow alarms
- information available in various formats including video, audio and British sign language clips and easy-to-read large print information

Providing personal care assistants is vital, as the fear of loss of independence and institutionalisation often stops disabled people from seeking help. Disabled women leaving their geographic area for a refuge may lose the local care funding and therefore their personal care assistants. Disabled people's care packages must be portable between home, refuge and supportive housing.¹⁵⁶

¹⁵⁵ Hague et al, *Making the Links: Disabled Women and Domestic Violence*. London. Women's Aid, 2007.

¹⁵⁶ Hague et al *Disabled Women, Domestic Violence and Social Care: The risk of isolation, vulnerability and neglect*. British Journal of Social Work, 2010.

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We gratefully acknowledge the work, data and contributions of the following individuals and organisations. We particularly thank the members of our steering group for their time, strategic advice and evidence: Eleanor Lisney (Sisters of Frida), Anber Raz (Imkaan), Cris McCurley, Hannana Siddiqui, Sue Robson, Professor Jill Marshall. We thank Simma Rai for providing the secretariat to the Group and the project as a whole and for indexing the evidence.

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Agenda

All African Women's Group

Allison Taylor, Salford Women's Employment and Resource Group

Anna Smith, One25

Asylum Aid

Black Women's Rape Action Project

Bristol Women's Voice

Cambridge Women's Rights Action Group

Charlotte Gage, Bristol Zero Tolerance

Chiara Capraro, Amnesty UK

Coventry Haven Women's Aid

Councillor Ann Sinnott, Cambridge City Council

Dr Johnson and Dr Barlow, Lancaster University Law School

Durham Law School

Elyssa Rider

End Violence Against Women Coalition

English Collective of Prostitutes

Esther Deans, Commission for Race Equality

Fawcett Society

Girlguiding

Heather Cooper, Kirklees and Calderdale Rape and Sexual Abuse Crisis Centre

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Karen Moore, Astraea project
Kate Cooke, Public Health Bristol City Council
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Lucy Russell, Plan International UK
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Persons Against Non-state Torture
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Professor Clare McGlynn, Durham School of Law
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Southall Black Sisters
Stef Martinsen-Barker, Cambridge Women's Resource Centre
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Trade Union Congress

UK Women's Budget Group
Vicky Boroughs, UNISON
WinVisible
Women Acting In Today's Society
Women Against Rape
Women Against State Pension Inequality (WASPI)
Women In Prison
Women's Aid Federation England
Women's Commissioning Support Unit
Women's International League for Peace and Freedom UK
Women's Resource Centre
Zarreen Mohi, Asian Women's Resource Centre
Zlakha Ahmed, Apna Haq

Appendix A

CEDAW Articles 15 and 16: The contextual background to the recommendations

The determination following the 7th periodic examination of the UK raised specific issues of protection for women from domestic abuse.¹⁵⁷ Nonetheless, women's NGOs have had to collect their own data about refusal of legal aid to women in violent relationships, and ultimately take legal action¹⁵⁸ to address what has been a significantly discriminatory impact on women's equality before the law.

Women rely on legal aid to a far greater extent than men in terms of access to justice under Art 15, and also in terms of Art 16 rights. This is due to a variety of factors including the greater impact on women than men of austerity,¹⁵⁹ the ongoing gender pay gap,¹⁶⁰ the fact that women make up the majority of the very poorly paid public sector and zero hours contract work is done by women.¹⁶¹ In addition, women have greater caring responsibilities than men. Even the Government's own research demonstrates that women depend on legal aid to a far greater extent. By making legal aid inaccessible, the Government has and continues to discriminate against women in these areas.

The Ministry of Justice (MOJ) opposed the case brought by Rights of Women (ROW) to remove the 24-month time limit on evidence of Domestic Abuse (DA) as being unrealistic in relation to the true nature of the lives of women fleeing abuse, and the long term nature of abuse. The research they conducted showed that the types of evidence demanded before grant of legal aid in family cases bore no relation to the reality of living with abuse, and were, in many cases, impossible to achieve, thus leaving women and their children without necessary protection.

As with other judicial reviews challenging LASPO,¹⁶² the MOJ fully contested the case brought by ROW until eventual defeat in the Court of Appeal in February 2016. At that stage, they opened a dialogue with ROW and representatives of professional legal bodies to consider changing the threshold evidence.

Progress was slow, and the process took almost 5 years from the inception of LASPO to the laying of the new regulations. Some progress has been made, but it has been contested at every step by the Government. Significantly, one of the main recommendations in the initial response to the 2011 consultation on these regulations (that women's DA NGOs should be recognised and respected for their expertise in what constitutes DA, and should be permitted to confirm victim status for these purposes, was finally granted.

In spite of significant further evidence the Government has yet to do anything to address the known failings of the online legal aid application portal (CCMS)¹⁶³ which has been exposed as discriminatory to women in family law proceedings as has the financial means test.

¹⁵⁷ E/c.12/GBR/CO/6

¹⁵⁸ <https://lexisweb.co.uk/cases/2015/january/r-on-the-application-of-rights-of-women-v-lord-chancellor-and-another>

¹⁵⁹ http://www.social-policy.org.uk/wordpress/wp-content/uploads/2015/04/16_bennett.pdf

¹⁶⁰ As above, from The Impact of Austerity on Women : Oxford university

¹⁶¹ Ibid

¹⁶² Legal Aid, Sentencing and punishment of offenders act 2012

¹⁶³ <http://www.associationofcostslawyers.co.uk/write/MediaUploads/ACL-Report-on-CCMS.pdf>

In their report to the MOJ, the Association of Costs Lawyers¹⁶⁴ advised that the system was critically unfit for purpose. Lengthy delays mean that cases are delayed, often (as evidenced) leaving vulnerable children and women in situations of significant harm. This has added additional stress to the proceedings and in some cases, women have given up trying to resolve their legal issues as a result. Delay also causes considerable problems in court's ability to list cases in a reasonable time. This is partly due to the care crisis,¹⁶⁵ and partly due to the MOJ closing significant numbers of courts to save money. The care crisis is the significant rise in numbers of children being legally removed from their parent's care; such cases are now dominating the remaining open courts, leaving insufficient time for the proper resolution of cases brought by women seeking protection from abuse for themselves and their children. Rural women are particularly impacted by rural court closure as the MOJ deem it acceptable if a court can be reached in a day's travel. This takes no account of child care and other caring responsibilities and will exclude rural women from access to justice.¹⁶⁶

RECOMMENDATION

Further proposed court closures must be halted. Adequate court time must be available for private family law cases. Early advice under legal aid for housing and family cases must be reinstated, and all cases involving abuse and children must be publicly funded. All victims of Domestic Abuse must not have the inaccessible equity in a jointly owned family used to require the payment of unreasonable contribution before grant of legal aid.

Financial eligibility for legal aid

The means test for legal aid has three components: Gross income, disposable income, and capital. If any of these are above the given threshold, legal aid is denied.¹⁶⁷

The gross income cap is £2657pm before tax. Many will achieve this through in work welfare benefits which recognise the number of dependents per household. The gross income limit is not adjusted to take account of the number of people dependent on that income, and means that many excluded on this test.

Disposable income is that which is left after housing costs and takes into account the number of people in the household. This limit is £733 per month. This is below the minimum income standard (MIS)¹⁶⁸ as what is judged to be the minimum income to meet the essentials of housing and food.

In some cases people well below this standard can get no legal aid : for example, a couple with one child has 28% less than they require for MIS at the income at which they are excluded from legal aid.

The capital test is particularly onerous for women who, in name, own a share of the former matrimonial home (FMH) even when they cannot access it, and have fled DA leaving the perpetrator still living there. Cases are emerging of women with no recourse to public funds being asked to make capital contributions to the costs of their legal aid

¹⁶⁴ Ibid

¹⁶⁵ <http://frg.org.uk/involving-families/reforming-law-and-practice/care-crisis-review>

¹⁶⁶ <https://www.gov.uk/government/consultations/proposal-on-the-provision-of-court-and-tribunal-estate-in-england-and-wales>

Hirch Donald Professor: "Priced out of Justice: means testing, legal aid, and making ends meet " Loughborough University March 2018

¹⁶⁷

¹⁶⁸ Ibid P4

running into the £1000s when they have no ability to access any of the capital in the FMH with which to pay it, thus denying access to legal help, unless she acts as a Litigant in Person(LIP). The 7th enquiry outcomes agreed that this was not an acceptable position to place a victim of DA, where the opponent is her perpetrator.

RECOMMENDATION

Financial eligibility must be realistically related to affordability.

Cross examination of victims of DA by the perpetrator in Family Proceedings

In 2014 a judicial working group was established to consider the impact of giving evidence for vulnerable women and children, particularly in family law cases which involve their abuser.¹⁶⁹

The final report made a number of recommendations stating that the failure to provide sufficient support meant that justice was denied in cases of DA. The recommendations included a protocol to establish where someone was vulnerable, and to look at what special measures would be put in place to allow them to give their best possible evidence in accordance with their HRA Art 6 rights.

It was considered that victims of DA should not be allowed to be cross examined by their alleged abuser. This was supported and expended by Family Law Guidance in 2017¹⁷⁰ which stated that perpetrators should not be allowed to cross examine their victims as this has to be considered to be a form of abuse in itself, and one that is likely to prevent full participation by the victim in the case.

Amber Rudd as Home Secretary proposed a bill to prevent this in 2016, but this was not proceeded with in the wake of the Brexit vote.

It was expected that this would be addressed in the Domestic Abuse Bill, but the consultation in respect of this bill¹⁷¹ simply states that this is an issue that still requires consultation.

The Government is committed to addressing this issue and will legislate to give family courts to power to stop this practice as soon as legislative time allows¹⁷²

It is unclear what further evidence and information or guidance the Government requires before they can legislate, and why the DA bill is not seen as the appropriate vehicle to introduce this essential power, the absence of which creates substantive inequality before the Law. It is also of note that the rise in the numbers of Litigants in Person (LIPs) has correspondent directly with the removal of legal aid for alleged perpetrators of abuse thus greatly increasing the likelihood of cross examination of a victim by a perpetrator in family law proceedings.

RECOMMENDATION:

The recommendations of the vulnerable witness working group in their final report must be fully implemented. It should be recognised that cross examination

¹⁶⁹ The report of the Vulnerable Witness and Children's Working Group March 2015

¹⁷⁰ Practice Direction 12J revised

¹⁷¹ Transforming the response to Domestic Abuse : HMG March 2018 https://consult.justice.gov.uk/homeoffice-moj/domestic-abuse-consultation/supporting_documents/Transforming%20the%20response%20to%20domestic%20abuse.pdf

¹⁷² Ibid p52

of a victim by a perpetrator is detrimental to Art 15 rights and a continuation of abuse.

Eliminating VAWG :

The Domestic Abuse Bill consultation.

The emphasis on this proposed legislation as a means of tackling DA is to increase Police powers. This once again betrays the failure of the Government to listen to expert advice on DA, even that which is given to their own select committees.¹⁷³ This 2008 report bears statistics which confirm that a woman will be beaten on average 35 time before she seeks assistance from professionals, and that in the vast majority of cases the desired outcome is protection for the victim and her children without criminalising her children's father. This committee is to take evidence this year in a 10 year review and it is expected that the outcome will be the same. Women want protection and the abuse to stop. Fear of criminalising family members has been reported in successive consultation responses about Forced marriage, honour abuse and FGM.

The costs to the police have meant that in the most recent report¹⁷⁴ on effectiveness of response to DA, most Force areas are not responding appropriately to DA call outs. There is an increasing body of knowledge and concern demonstrating this. The giving of more emphasis to a Police response to DA is therefore not what is needed, nor is it effective.

Table 1: Domestic violence prevalence and arrest and child-protection referral rates¹⁷⁵

Police force area	Total number of domestic abuse offences (Apr '16 to Mar '17)	Arrests	% of arrests	Number of DV related Child protection referrals	% of CP referrals	% Variance between arrest and CP referrals
ENGLAND AND WALES³	579,971	217,607	37.5	228,385	39.4	1.9
West Midlands Region	62,380	16,592	26.6	42,330	67.9	41.3
North East Region	41,687	10,041	24.1	15,791	37.9	13.8
South West Region	41,232	16,657	40.4	21,332	51.7	11.3
London Region	82,622	30,979	37.5	33,969	41.1	3.6
East of England Region	59,653	24,644	41.3	26,085	43.7	2.4

¹⁷³ Home Affairs Select Committee on Domestic Violence, Forced Marriage and Honour Based Violence June 2008.

¹⁷⁴ A Progress report on the Police response to Domestic Abuse November 2017

¹⁷⁵ <https://www.ons.gov.uk/releases/domesticabuseinenglandandwalesyearendingmarch2017>

<https://www.ons.gov.uk/peoplepopulationandcommunity/crimeandjustice/datasets/domesticabuseinenglandandwalesappendixtables> - see Appendix Table 21 for DV child protection referrals

		7				
Wales	38,583	14,286	37.0	14,232	36.9	-0.1
South East Region	63,358	34,306	54.1	32,060	50.6	-3.5
East Midlands Region	42,636	18,326	43.0	16,732	39.2	-3.7
Yorkshire and the Humber Region	62,967	28,380	45.1	21,511	34.2	-10.9
North West Region	84,025	23,393	27.8	4,343	5.2	-22.7

Responses to Reports of domestic abuse

The number of children looked after in the care system, in England and Wales are at the highest level since 1985¹⁷⁶ and half of all children identified as being in need of help by councils have experienced or witnessed domestic violence.¹⁷⁷ Table 1 shows that in some English regions, such as the West Midlands, North-East and the South West region, the child protection referral rate is higher than the arrest rate for DV offences, suggesting that reporting DV is more likely to result in a CP referral than the actual arrest of the perpetrator. These trends require further analysis as they could imply a prevailing gender neutral approach to domestic violence which could ultimately prevent women from reporting for fear of losing their children.

The Istanbul Convention

In the State report the Government say that they cannot ratify the IC until it is compliant with it, yet it is taking no steps to become compliant, nor is it demonstrating any will to ratify. It took a Private members bill (PMB) to bring the issue before the House of Commons for debate.¹⁷⁸

After a prolonged period of lobbying, the convention was voted in, unanimously following the PMB submitted by Eilidh Whiteford of the Scottish National party. In spite of this support, it is still to be enacted by the Government, and, again, the DA bill seems to represent a further missed opportunity: There is no statutory provision for DA services, such as refuges. Recent Freedom of information Act requests by the Guardian Newspaper¹⁷⁹ show that in spite of the terms of the IC, refuge funding has fallen each year since 2010, with refuges closing as a result.

Further Government policy including the proposals to prevent the payment of housing benefit to women in refuges¹⁸⁰, replacing it instead with a requirement that they are funded by cash strapped local authorities will add to growing crisis. Local Authority with the exception of those in safe Conservative areas have had their Central Government funding cut successively, year on year since the election of the Coalition Government

¹⁷⁶ <https://www.frg.org.uk/involving-families/reforming-law-and-practice/care-crisis-review>

¹⁷⁷ Local Government Association (Feb 2018) <https://www.theguardian.com/society/2018/feb/17/councils-struggling-cope-surge-child-protection-referrals-domestic-violence>

¹⁷⁸ <https://www.holyrood.com/articles/news/snp-mp-eilidh-whiteford-launches-private-member's-bill-tackle-violence-against-women>

¹⁷⁹ The Guardian Newspaper 24.3.2018:

¹⁸⁰ Supported Housing: A case for change 2018

and the commencement of Austerity politics in 2010. Failure to ratify this convention have significant implications for women fleeing violence.

RECOMMENDATION

Realistic measures to combat domestic abuse must be reconsidered, and women's specialist services properly funded. Civil measures must be supported and funded, rather than relying on the Police (who the Government are well aware do not have the budgetary resources) to provide adequate protection.

The Istanbul Convention must be implemented immediately in full and without reservations

The proposals to leave funding of refuges to Local Government (whose resources have been significantly cut) must be abandoned and payment via central Government through benefit payments must continue.

Refuge closures

Changes in benefit payments, benefit caps and the proposed Government plan to make local authorities fund refuge placements and an unrelenting policy of austerity mean that refuges are having to close and more will follow. For migrant women the position is much starker as if they have been subject to visa abuse and have no recourse to public funds, there is virtually no refuge places available to them and their children¹⁸¹

Refuges must be properly funded in accordance with inflation, and specialist BME refuges must be funded. The move to funding generic services must be reversed.

The Review of LASPO:

At the time of the passing of the act, the Government committed itself to carry out a full review of the impact of LASPO within 5 years. There have been repeated calls for an earlier review, and a number of parallel reviews such as the Bach Report¹⁸², The Justice select Committee report¹⁸³, the

Low Commission report¹⁸⁴, the Public Accounts Committee report¹⁸⁵ (which critically found that apart from saving money to the MOJ, all other claimed objectives of LASPO had failed – and that the savings were just being passed on in increase in other public spending) have found that LASPO has resulted in a breakdown in access to justice for those who most need it, and that victims are being failed. All reports also demonstrate how the rule of Law and access to justice are being systematically eroded as a result of LASPO, and as women use legal aid significantly more than men, this is causing intersectional failure of compliance.

The Government 8th periodic report states that their LASPO review will be limited in literally 5 year, on 1.4.18. As yet the review has actually still to commence, and the report date has been moved back twice already from 1.4.18 to summer 18, to the end

¹⁸¹ <https://www.telegraph.co.uk/women/womens-life/11013739/UK-domestic-violence-refuge-closures-the-most-dangerous-thing-of-all-for-women.html>

¹⁸² <https://fabians.org.uk/the-final-report-of-the-bach-commission/>

¹⁸³ , [https://www.parliament.uk/documents/commons-committees/public-accounts/HC%20808%20civil%20aid%20final%20\(web%20version\)%20v2.pdf](https://www.parliament.uk/documents/commons-committees/public-accounts/HC%20808%20civil%20aid%20final%20(web%20version)%20v2.pdf)

¹⁸⁴ <https://publications.parliament.uk/pa/cm201415/cmselect/cmjust/311/31102.htm>

¹⁸⁵ [https://www.parliament.uk/documents/commons-committees/public-accounts/HC%20808%20civil%20aid%20final%20\(web%20version\)%20v2.pdf](https://www.parliament.uk/documents/commons-committees/public-accounts/HC%20808%20civil%20aid%20final%20(web%20version)%20v2.pdf)

of the year. As demonstrated in the Shadow report 7th periodic review – this act has caused significant failure of compliance in an intersectional nature, as access to justice removed impacts on compliance across all articles.

This is coming to light and can be evidenced by evidence given to the Care crisis review. Removal of housing legal aid for repairs plus cuts to the welfare system and welfare sanctions (Plus the removal of legal aid for welfare rights advice and debt law) have critically increased deprivation as consultation responses warned. A big aspect of the care crisis is due to what is being termed chronic neglect and poor housing conditions (but which has its root causes direct cuts to legal remedies) which has led to children being removed from their parents and placed in foster care or adoptive placements. This has increased public spending (it is very expensive to place children in care) by cash strapped local authorities. The majority of single parents are women, and they are also statistically more significant in removal of children¹⁸⁶

RECOMMENDATION

LASPO must be reviewed comprehensively taking into account the damage that it is inflicting on most vulnerable in society and

BME women and equality before the law.

In addition, BME women and children are far more likely to experience injustice due to additional cultural misunderstandings and a lack of cultural awareness on the part of public and statutory bodies¹⁸⁷ and the current one size fits all approach to Public and Private family law does not attempt to resolve the intersectional complexity for BME women and the law. BME children are disproportionately represented in the Care review.

RECOMMENDATION

There must be an urgent review of the experience of BME women and children in all parts of the justice system

Women in the criminal Justice System

The Corston report of 2007¹⁸⁸ revealed horrific statistics about women in prison, and the impact on them and their families. In particular, women with children often lost them to the care system or to kinship carers as women in the prison system are far more likely to be primary carers of children than men. Proportionately more women than men were remanded in custody, the clear majority of women committing crimes were themselves victims of sexual and violent abuse, and male coercion. Women are proportionately more likely to commit suicide in prison than men. The report was undertaken largely as a result of 6 deaths in custody at Strangeways prison. 10 years later the Corston review report¹⁸⁹ records the highest number of deaths on record in the prison estate, and a failure to implement the majority of the Corston recommendations.

One of those recommendations was for there to be easily available legal aid for victims' families at Inquests. This has yet to be implemented, although very limited and very hard to achieve legal aid is available under the Legal Aid Exceptional Funding scheme. The MoJ own figures show that this is rarely granted.

¹⁸⁶ Office of National Statistics <https://www.ons.gov.uk/peoplepopulationandcommunity/householdcharacteristics>

¹⁸⁷ www.familylaw.co.uk/site.aspx?i=ed159951 : Family Justice and Race: the need for a fundamental review.

¹⁸⁸ <http://www.justice.gov.uk/publications/docs/corston-report-march-2007.pdf>

¹⁸⁹ <http://www.womeninprison.org.uk/perch/resources/corston-report-10-years-on.pdf>

The Lammy report ¹⁹⁰

Published in September 2017, this report into ethnicity in the criminal justice system demonstrated the huge disproportionality in treatment of BME women in the Criminal Justice system compared with the white female population. BME women are far more likely to be arrested, charged and imprisoned than their white counterparts. Lammy Made the same findings as Corston in relation to the likelihood of women in prison being victims of male violence.

RECOMMENDATION

The recommendation of the Corston and Lammy report must now be fully implemented

Education must be undertaken at all levels of statutory services so that the impact of abuse is understood and that victim are not Criminalised

The experience of victims in cases of rape and Sexual Assault

Despite the limited ability of defendants to raise issues of previous sexual behaviour by the Victim and the procedures introduced for Judicial control of this ‘evidence’, humiliating sexual questioning and stereotyping of the victim persists in the criminal court, unchallenged by the Prosecution or the Judge. In their 2016 report, ¹⁹¹ the Northumbria Court observers panel found that in 36% of the trials that they observed, the victim was questioned about her sexual history. In addition, the 13 model directions available to the Judge to counter negative stereotyping by juries¹⁹² they were not used by the Judges in 23% of cases. In relation to the dissolvability of all aspects of the Victim’s life (including health, school records, social services involvement) this is routinely requested by the defence at the outset of the case in an attempt to discredit the victim by use of her history. Procedurally, the defence has to make an application for such disclosure to be made available to them to demonstrate her ‘bad character’. The observations showed that the Prosecutor rarely opposes disclosure, and Judges readily allow it. The Victim has no-one to speak for her rights in this situation.

RECOMMENDATION:

Victims of Rape and sexual assault should have the right to attend and be represented by publicly funded advocates to argue against disclosure of previous history of any kind which is essentially more prejudicial than probative.

Yarlsworth detention Centre

Concerns continue to grow over the inhumane treatment of migrant women in the detention and removal centre. In 2014, Special Rapporteur Rashida Manjoo was refused access to Yarlsworth amid allegations of sexual and physical abuse of the women by the staff, there.

A 2015 undercover investigation by Channel 4 journalists revealed a culture of abuse and contempt towards the women, frequent suicide attempts and self-harm routinely

¹⁹⁰ https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/643001/lammy-review-final-report.pdf

¹⁹¹ <http://www.northumbria-pcc.gov.uk/v2/wp-content/uploads/2014/08/Seeing-is-Believing.pdf>

¹⁹² <https://www.judiciary.gov.uk/wp-content/uploads/2016/05/crown-court-compendium-part-i-jury-and-trial-management-and-summing-up.pdf>

dismissed as ‘attention seeking’ by the staff recorded as calling them ‘animals’ and saying ‘let them slash their wrists’¹⁹³

Protests against the inhumane treatment have been frequent with calls for the centre to be closed down have been ignored by the Home office. IN 2018, over 120 inmates are reported to be on hunger strike. Concern for the mental health of detainees has been recorded by HMPI¹⁹⁴

Complaints include inadequate health care, inappropriate diet, ‘period poverty’, labour exploitation (full day’s work for between £1-3) and ongoing abuse.¹⁹⁵ The Government continue to deny the concerns and defend the work of the centre.

RECOMMENDATION

Yarlswood is a national disgrace and must be closed. Monitoring of those with vulnerable immigration status must be done humanely and in the community.

Women’s legal action to preserve human rights opposed by the State.

Far from defending the rights of women, the Government has vigorously defended the right to withhold them in several high profile legal cases when women have applied to the court for enforcement of their human rights

Without legal aid, women have brought their cases with Lawyers either acting on a pro bono basis, or funded by public donations. When defeated, the Government has appealed only to ultimately lose in the Higher courts. It has taken enormous courage a tenacity to bring these cases, one of which is the already mentioned ROW v The Secretary of state for the Home office¹⁹⁶

The Centre for Women’s Justice was set up in 2016 to identify patterns of discrimination against women and women’s inequality within the criminal and Civil legal systems and take test cases which, in each case, were strongly defended by the Government.

Two victims of serial rapist John Worboys (the Black Cab rapist believed to have raped over 100 women) took the Metropolitan Police to court¹⁹⁷ for breach of their human rights by failing to investigate Worboys properly and leaving him at liberty to subject then to inhumane and degrading treatment under article 3. They won their High Court case in 2014, but the then Home office Minister, now Prime Minister, Theresa May, intervened on behalf of the Police and their appeal against this outcome. The Police were successful in the court of appeal, but IN 2018 the Supreme Court upheld the original decision awarding damages to the two women.

The two women were back in court after the decision of the Parole Board to grant parole to Worboys on 4.1.18, after serving less than 10 years in prison. In a legal challenge to the Parole Board, the Government decided not to intervene, again leaving the women to crowd fund their legal action¹⁹⁸. In March 2018 the Supreme court found that the decision to release Worboys was unlawful as was rule 25 of their code of rules which allowed them to withhold their reasons for granting parole.

¹⁹³ <https://www.channel4.com/news/yarls-wood-immigration-removal-detention-centre-investigation>

¹⁹⁴ Her Majesty’s inspectorate of prisons

¹⁹⁵ <https://www.thelondoneconomic.com/news/women-notorious-yarls-wood-detention-centre-third-day-hunger-strike/23/02/>

¹⁹⁶ <http://www.bailii.org/ew/cases/EWHC/Admin/2015/35.html>

¹⁹⁷ <https://www.judiciary.gov.uk/wp-content/uploads/JCO/Documents/Judgments/dsd-and-nbv-v-met-police.pdf>

¹⁹⁸ <https://www.judiciary.gov.uk/judgments/the-queen-on-the-application-of-dsd-and-nbv-ors-v-the-parole-board-of-england-and-wales-ors-and-john-radford/>

The case was debated in the House of Commons on the 28th March when MPs from all parties were critical of the Government that victims of crime had to take legal action to protect society from dangerous criminals when the Government failed to, and that they had to do so without legal aid. Further criticism was laid at the MOJ for failing to appropriately inform the Parole Board before their decision to release Worboys¹⁹⁹ In a third case brought to the High Court in 2018, the CWJ fought for the right for women who had been groomed into prostitution as minors to have their criminal records expunged to allow them to be rehabilitated. The Home office is appealing against the women's win in the High Court.²⁰⁰

RECOMMENDATION

Legal Aid must be made available for women to take such essential legal action to enforce their rights.

It is the job of Government, not the victims of crime, to take action to protect society from dangerous offenders.

Judicial review must be properly funded to allow such serious test cases to be taken as appropriate.

Femicide

Women's Aid census showed that 113 women were murdered in 206, 83% of those were killed in their own home by a current or previous male partner.²⁰¹ Their 2016 report, 19 homicides²⁰² demonstrated through a review of the murder of 19 children by their father's that the family courts had moved away from a position of no contact for a father where domestic abuse is alleged or proved unless it could be proved to be safe, to one of contact unless it could be proved to be unsafe for the mother or children by 2014 legislation²⁰³.

As a result of a concerted campaign by ROW and Women's Aid, Sir James Munby P, most senior family Judge in England and Wales revised the Family Procedure Rules as to how victims of abuse are treated in family courts and how contact for the perpetrator should be viewed.²⁰⁴ PD 12 J came into effect in 2018, but its implementation is patchy at best, not least of all due to the lack of adequate time to hear cases involving domestic abuse in the family courts.

RECOMMENDATION

All measures to cut funding for women's services must be abandoned and funding restored for specialist services.

Refuge closures must be reversed, and the Government must ensure that there are sufficient refuge places

PD12 J must be fully implemented in family law proceedings concerning the protection of women and children from abusers.

The Istanbul Convention must be fully and immediately ratified without further prevarication or excuses.

¹⁹⁹ <https://hansard.parliament.uk/commons/2018-03-28/debates/1CA8B88F-214F-4196-A98F-F9886BD82014/WorboysCaseAndTheParoleBoard>

²⁰⁰ <http://www.bbc.co.uk/news/uk-43261021>

²⁰¹ <http://www.niaendingviolence.org.uk/news/index.php>

²⁰² <https://www.womensaid.org.uk/launch-of-nineteen-child-homicides-report-child-first-campaign/>

²⁰³ <http://www.legislation.gov.uk/ukpga/2014/6/contents/enacted>. Children and families Act 2014

²⁰⁴ <https://www.creighton.co.uk/news/2017/12/11/revised-practice-direction-12j-family-procedure-rule>

Supporting vulnerable groups and Visa abuse

Visa abuse was raised by the 3rd Sector at the UK 7th periodic enquiry but no action has been taken by the Government to address it.

The Domestic Violence Discretionary Concession visa application has still not been extended to women who are not on spouse visas, yet evidence has consistently been provided to the Home office about the deliberate vulnerability that women are subjected to by their husbands and in-laws when they either bring them to the UK on other forms of visa (as a means of exercising control and abuse – Do as we say or we can send you back) or failing to apply for indefinite leave to remain which allows them to be deported when no longer wanted.

The disposing of unwanted spouses back to countries of origin while retaining their children in the UK was highlighted by Southall Black Sisters in their 2017 report ²⁰⁵ has been recognised as a form of domestic abuse by Sir James Munby in PD12J, but as yet, no mechanism has been provided to allow them to return to the UK to use the legal system to fight for their children. By allowing this situation to continue, the State is in serious breach of article 16.

RECOMMENDATION

Women must be able to access the Domestic Violence Discretionary Visa Concession, regardless of visa status .

Urgent legislation is required to allow women taken abroad to return to the UK to access justice in relation to their children

Protecting women from informal Community Arbitration

This was also highlighted as a failure in the 2013 determination. With progress on legal aid reform slow, BME women are still intersectionality discriminated against, and still having to turn to informal tribunals such as the Sharia Courts. The Register our Marriage campaign²⁰⁶ has done the job that the state should have undertaken by raising awareness that if Islamic marriages are not legal registered in the UK, then they will have no access to the family courts to take action on divorce over issues about children and finances, leaving them with the Sharia court as their only form for dispute resolution, which are acknowledged to be discriminatory towards women.

RECOMMENDATION

The Marriage Act 1949 must be revised to deem Islamic marriages legal marriages for the purposes of the Matrimonial Causes act 1973

Increasing Judicial Diversity and involvement of women in the legal profession.

Court closures and lack of adequate court time to hear the resultant cases is adding to considerable delay to Justice. The State's proposal to counter this has been to increase the opening hours of the remaining courts.²⁰⁷ So far the Government has ignored concerns raised by the profession that this will lead to women with children or other caring responsibilities being excluded from the profession as they will not be able to work the longer court days. This will also impact on women court users who will be similarly impacted. In addition, the Government has not given any consideration as to

²⁰⁵ http://eprints.lincoln.ac.uk/20091/7/20091%20Anitha%20et%20al_2016_Disposable%20women.pdf

²⁰⁶ <https://www.registerourmarriage.org/>

²⁰⁷ <https://www.gov.uk/government/news/flexible-courts-to-open-in-dozens-of-areas>

how firms should remunerate their staff for longer working hours and the impact on existing contracts of employment.

Measures to increase women's presence in the Judiciary have been very slow to show progress. The proportion of BME women and Working class women is even lower than Middle class white women.²⁰⁸ Solutions such as 'flexible court opening hours' and the high cost of higher education will only increase the gap. 2016 figures show that numbers of women Judges at all levels at only 22.3 %, with BME judiciary at only 5.1%.

RECOMMENDATIONS

Greater efforts to recruit women including BME and working class women must be made including the introduction of specialist women only intakes at all level of Judiciary.

Proposals to increase the length of the court day must be abandoned as discriminatory.

²⁰⁸ <https://www.theguardian.com/news/datablog/2012/mar/28/judges-ethnic-sex-diversity-judiciary#data>

Appendix B

Evidence for CEDAW shadow report, by Southall Black Sisters [insert web link]

Rural Women

19% of the population of England live in rural areas where an average 23.5% of the population is over 65 compared with 16.3% of urban areas. Rural areas have more 'white British' people living in them (95% as compared with 77.2% in urban areas). Minority ethnic groups are therefore represented in very small numbers and may lack social and community support found in urban centres. A high proportion of migrant workers have moved into work in areas such as Herefordshire, Lincolnshire and Cambridgeshire, as well as areas around Somerset and Devon, the Fens, Norfolk, parts of Cumbria and the Vale of Evesham. These workers tend to be young adults, compared with the older settled rural populations.

The BME rural population is growing across the UK and is increasingly culturally diverse due to external and internal migration. Gypsies and Travellers, the only group who live in greater numbers in rural than in urban areas, experience some of the poorest health of any group in society. Despite small numbers overall, rural areas may have some significant pockets of BME populations, often migrant workers and their families, who may be highly skilled but in low paid work. There are also high numbers of families in poverty, for instance in Berwick East, where income deprivation is significantly worse than the national average.

Refugee women new to the UK are increasingly dispersed to rural areas and are struggling with expectations and demands they encounter in their new lives. Many experience barriers, including language, culture, lack of personal transport, poor bus services in rural areas, low income or limited employment opportunities, family and job responsibilities, as well as lack of information about services and difficult access to support networks.

The key over-arching issue facing rural women is exclusion created by scarcity of amenities and services – inadequate affordable housing, transport and communications infrastructure that compounds the isolation of rural women and prevents access health and social care services, childcare, training, education and employment. The cumulative effect drives women into poverty and limits their life chances.

House-building has increased but much still does not meet the needs of local women, being unaffordable, or not social housing, or because the expansion of tourism and demand for second homes keeps prices artificially high.

We recommend greater investment in rural infrastructure including transport, housing and community-based services and the application of gender mainstreaming to transport and housing policies, with smaller, locally focused initiatives to respond to geographical challenges. The UK Government must deliver its commitment to rolling out broadband to rural areas by 2022.

Lack of training, education and employment opportunities prevents rural women's equal access to economic opportunities through employment or self-employment.

We recommend locally based education, training and employability programmes for women in rural areas, linked to holistic and culturally sensitive support, with funded specialisms to address the particular barriers for: BME women, parents of children with additional needs, and women with additional learning needs. We need incentives for partnership work with key agencies and organisations to provide additional support for rural women to set up their own businesses. This should include: improved access to start-up funds; creative solutions; sensitive, women-focused approaches to address intersectional barriers, and ongoing female-friendly support and investment in micro-enterprise initiatives and programmes.

Older, disabled and BME women face cultural prejudice and discrimination. Reported hate crime increased by 400% in the Northumbria Police area after the Brexit referendum. Over four years in County Durham and Darlington constabulary, reports of hate incidents increased by 32%.

By far the biggest barrier to participation in all community activities for BME women in County Durham is racial hatred and hate crime. BME women are particularly vulnerable in County Durham as most live in small towns, scattered across a large geographical area. The climate of austerity and hostility towards those perceived as 'foreigners' is increasing. Extreme far-right organisations are gaining public attention and support, with slogans fanning the flames of bigotry across the UK, and County Durham is susceptible to such divisive ideas. With the rise in number of followers and supporters of Far-Right organisations BME women, some children and international students are feeling increasingly vulnerable. The tabloid culture, increase of racist posts and tweets on social media as well as tolerance of hate speech put many women at risk especially refugee women or anyone perceived as Syrian refugee.

We recommend measures to support the effective engagement and participation of women with intersectional perspectives in rural public life, including the design and delivery of targeted and specialist services for BME women on: mental health, VAWG, Hate Crime and issues arising from women's role within the family.

Government strategy for the North of England, including the Northern Powerhouse, is male-dominated and urban-focused. Only 25% of regional directly elected mayors are women, and only 1 of the 7 chairs of the established and proposed combined authorities in the Northern Powerhouse region are women; 72% of the senior leaders are male. Funding such as the European Leader programme is being dismantled. This will have a disproportionately detrimental impact upon women's participation in rural development planning.

Women in Northumberland have a 15.2 score for inequality in 'healthy life expectancy' at birth (i.e. maintaining good health into old age). This is higher than all of the urban North East except Tees Valley. There is a significantly older population in rural areas (averaging 23% over 65, and as high as 40% in some market towns). The impact of retirement pension age eligibility changes has left many women aged 60+ living alone, in poverty. Women are often dependent on peripatetic mental health crisis services.

The lack of local mental health services leaves women on waiting lists for months, even where suicidal. There are big backlogs for counselling. The closure of rural community hospitals (eg Rothbury) and maternity services (Alnwick, Rothbury, Hexham) impact disproportionately upon women as mothers and as carers. The YorSexualHealth service in North Yorkshire launched in July 2015²⁰⁹ is a virtual service enhancing choice for those who prefer not to attend clinics and reducing overheads. Feedback from young people consulted was that a virtual service offers greater privacy and easy rapid access, particularly for those in rural areas.

Each year, between 3,500 and 5,000 women and girls aged between 16 and 59 living in rural areas in Warwickshire experience domestic abuse. Women living in rural areas may experience more barriers accessing services, therefore services need to be targeted to overcome potential barriers. There are centres across the county where victims can access support and are used as a base to go into the local community. However due to the rurality of some districts, accessibility of these centres was considered to be a problem for some of the clients interviewed. Women in rural areas valued health practitioners, particularly GPs, in providing confidential and safe services for women, making it all the more important for GPs to be able to identify and respond effectively to DVA.

The 'Weaving the Web' platform from which a range of easily accessible specialist online services will be provided from late 2018 which complement Rape Crisis services for women and girls who are unable to access face to face services and reach to under-served women and girls, for example BME and disabled women.

BME women face multiple barriers towards obtaining equal access to economic opportunities through employment or self-employment: Lack of affordable opportunities to improve their English and professional ambitions. ESOL classes in the community by Durham County Council that were available in the past no longer exist because of government budget cuts.

Women without personal transport can spend hours, often with small children, in buses around the county. It costs over £6 for a return ticket to a market town for a woman living in a village, and there are no subsidies for local people. School transport is not subsidised for families living within 3 miles. For those with cars, petrol is significantly more expensive. The cost to the women's sector in providing holistic support to women is high, with round trips often costing an average of £40.

Travel to work strategies do not properly address the shape of work in rural areas, and even efforts to link market towns to urban work opportunities are sparse, for example, the hourly bus takes 90 minutes between Alnwick and Newcastle. Services scattered in a vast geographical area in County Durham with difficult access because of lack of personal transport and discontinued bus services, having to use two or three buses to travel to their destination. Low income families can't afford travel expenses.

²⁰⁹ <https://www.yorsexualhealth.org.uk/>

