



# VIOLENCE AGAINST WOMEN

IN THE

# UK

SHADOW THEMATIC REPORT  
For the  
COMMITTEE ON THE ELIMINATION OF ALL FORMS  
OF DISCRIMINATION AGAINST WOMEN

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## **DEDICATION**

This report is dedicated to the memory of Dame Anita Roddick, who passionately supported work against violence against women. Her legacy enabled this report to be produced.

## **ORGANISATIONS THAT HAVE CONTRIBUTED TO OR ENDORSED THIS REPORT**

Amnesty UK	Northern Ireland Women's Aid Federation
Domestic Violence Research Group, University of Bristol	Poppy Project
Eaves Housing for Women	Rainbo
Equality Now	Rape and Sexual Abuse Centre, Merseyside
End Violence Against Women	Rape Crisis Scotland
FORWARD	Refugee Women's Resource Project
Greater London Domestic Violence Project	Say Women
ImKaan	South Essex Rape and Incest Crisis Centre
International Planned Parenthood Federation	Southall Black Sisters
Kalayaan	Sylvia Walby, University of Lancaster
Lilith Project	Truth About Rape
London Centre for Personal Safety	West Yorkshire Justice for Women
London Justice For Women	Women Living Under Muslim Laws
	Women's Aid Federation of England

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# HEADLINE AREAS

The essence of the human rights agenda is the pursuit of human dignity: what this looks like and how it can be achieved. The human rights framework specifies what individuals should be able to do to achieve, maintain and protect that dignity and places on states the obligation to ensure that these rights are made real. Violence stands in contradiction to dignity as a violation in itself of those rights and, through its impact, is an impediment to the realisation of a significant number of rights. The framework also espouses a commitment to the elimination of discrimination against women and understands that violence against women is a cause and consequence of gender discrimination.

Any state that claims a commitment to human rights must take seriously the eradication of violence against women. The UK government has promised to uphold and implement international law on the elimination of discrimination against women. Yet, despite a myriad of government initiatives that seek to address violence against women, the UK still fails adequately and coherently to tackle the problem. This report illustrates some of those shortcomings.

The UK has a justified reputation for its thriving NGO sector and strong research culture on violence against women. These achievements, however, have been despite and not because of government engagement, which has remained reactive and limited, for over two decades. Scotland can claim to have been more strategic and has invested in basic services for women in recent years. The UK also has a history of pilots and experiments, the lessons from which are rarely rolled out nationally, and a professional culture in which implementation of national policies is patchy and un-coordinated. Most importantly, the UK policy context is one that suffers from disconnections: between forms of violence, with most resources and policy development being focused on domestic violence; and of all violence from gender equality.

The authors of and signatories to this report welcome the increased attention from government to the issue of violence against women and girls over the last nine years, as reflected in the greater attention and space afforded to violence against women in the 2007 report to CEDAW. However, we argue that limited financial investment and a lack of strategic infrastructure and oversight mean that the UK is still not in compliance with the responsibilities of states as elaborated in CEDAW

and the Beijing Platform for Action. A number of issues highlighted in the report have been recognised for well over five years. The UK government is consistently and knowingly failing to meet due diligence standards of human rights protection with respect to its female population.

Below we note the overall conclusions and insights to emerge from this Thematic Shadow Report on violence against women in the UK:

- Outside Scotland, work on violence against women is not located within a gender equality framework and is primarily dealt with as a crime issue.
- The introduction by the government of a Gender Equality Duty was eagerly anticipated by the women's sector yet the reality has proved disappointing. There is a misconception among local government agencies that gender equality means that women-only services cannot be provided or that anything provided for women must also be made available for men. There is concern that this may reduce the specialist violence against women sector.
- The domestic human rights framework has yet to find an adequate balance between the rights of families and defendants, on the one hand, and (victims') rights to live free of violence and to dignity, privacy and protection on the other. There is also inadequate understanding of the links between violence against women and economic, social and cultural rights.
- Currently, victims of crime have limited statutory rights in the legal system. Whilst there are some procedural protections (such as giving evidence behind screens), most are won through application, not given by right, and are subject to judicial discretion. These rights are thus differentially experienced.
- There is no Strategic Plan of Action on violence against women for the UK as a whole, or for England and Wales. This in turn has the following results:
  - Policy, research and provision on domestic violence dominate government approaches yet remain inadequate.
  - There is a failure to make connections between forms of violence in terms of their dynamics, consequences and underlying causes.
  - There is duplication, fragmentation and lack of knowledge transfer across sectors.
  - Whilst there has been some linkage across three inter-ministerial groups on violence, this takes place in a gender-neutral framework and there is still no strategic

oversight body, such as a Commission on Violence Against Women or an Observatory.

- o There is a consistent lack of sanctions against violent/abusive men, evident through low levels of prosecution/high attrition rates across offences of rape and sexual assault, domestic violence, child sexual abuse/exploitation, trafficking and prostitution.
- o There is no funding stream designed to sustain the specialist NGO sector.
- o Whilst there is significant innovation in the UK, mainstreaming is slow and uneven, resulting in an absence of minimum levels of provision and inadequate protection, prosecution and prevention – in terms of both institutions and certain geographical areas.
- o There is lack of transfer into mainstream policy agendas such as child poverty, social

inclusion, mental health, regeneration or rural affairs.

- o There is failure to integrate across nations and regions: Scotland has an explicit focus on violence against women and gender equality but this is not the case for England, Wales and Northern Ireland.
- o There is a risk that the needs of and dangers faced by immigrant, refugee and asylum-seeking women may become eclipsed or deformed by current security and terror concerns.
- o Inadequate attention is paid to the issue of self-defence for children, young people and women. Its role in raising awareness and in contributing to the prevention of violence and routes to recovery is poorly recognised by policy makers.

# INTRODUCTION

Violence against women remains a key factor that undermines the ability of women to participate as full and equal citizens in UK society. The violation of their human rights by acts of rape, domestic violence, sexual harassment, stalking, crimes in the name of honour, female genital mutilation, trafficking and forced marriage continue both to circumscribe the lives of women and girls and to undermine their participation at every level of society.

It is clearly the case that the UK government has increased the priority given to issues of violence against women since the last CEDAW examination in 1999. This is both acknowledged and applauded. The role of a shadow report is to complement the government's account by highlighting areas of work that remain to be addressed and by commenting on the efficacy or otherwise of existing initiatives. This report represents the consensus voice of the NGO sector working against violence against women; as such it is an extremely well informed response that offers a commentary on, and critique of, the UK situation.

The 2007 report was produced through a process of consultation across the violence against women sector. A list of organisations that formally endorse this document is provided (see inside front cover).

The fundamental message of this report is that all issues of violence against women are interlinked. For reasons of government policy and service delivery architecture, and in order to highlight specific concerns, this report addresses the different forms of violence against women separately. We begin, however, with a number of cross-cutting issues: multiplicity and coherence; refugee and asylum-seeking women; rural women; prevention and awareness raising; professional training; community, faith and fundamentalisms; strategic infrastructure; and research.

## Why and how this document has been produced

As various UN documents and policies have made clear, violence against women is an issue of gender discrimination, representing a barrier to the achievement of gender equality. It has been placed squarely within the international Human Rights agenda since the 1993 Vienna conference, confirmed in the 1993 Declaration on the Elimination of Violence against Women. The CEDAW Committee has made clear that it considers violence against women to fall within the umbrella of discrimination against women on which governments are expected to report – although

the mechanism for doing so is somewhat dispersed given that a discrete section on violence does not appear within the Convention articles – and violence against women is pertinent to several General Recommendations.

We have produced this report to assist the committee in foregrounding the issue of violence with the UK government. We have fed into the Women's National Commission process for the official shadow report and chosen to provide the Committee with more detailed material in support of this. This report updates and supercedes the Shadow Thematic report produced in 2003.<sup>1</sup>

Developments in international human rights discourse, including the Beijing Platform for Action, and practice have consistently called for the establishment of national strategies on violence against women. In response to the UK's report to CEDAW in 1999 the Committee raised the need for a national strategy on women. Such a plan is not in place in the UK. A national strategy should provide clear goals for implementation, timelines for achieving these and funding lines to enable their achievement across the UK. Clear strategies should also harmonise and integrate multiple relevant government policy and practice threads, such as the Gender Equality Duty and the work of the new Equality and Human Rights Commission.

Commitments made in *Living without Fear*<sup>2</sup> promised much with respect to violence against women but implementation in England, Wales and Northern Ireland remains fragmented, with only 'pockets of good practice'. In contrast, Scotland has had a National Strategy on Domestic Abuse since 2000 within which significant government funding has been allocated to improving and enhancing direct service provision. This is now being transformed into an Action Plan on Violence Against Women. Furthermore, within this a specific prevention policy has been outlined. The different approach in Scotland has had positive outcomes in terms of provision, as evidenced by a recent study mapping violence against women support services<sup>3</sup>.

<sup>1</sup> P Sen, C Humphreys and L Kelly, 2003, *Violence Against Women in the UK*, CEDAW Thematic Shadow Report.

<sup>2</sup> Women's Unit (1999) *Living Without Fear: An Integrated Approach to Tackling Violence Against Women*, London, Cabinet Office.

<sup>3</sup> M Coy et al (2008) *Map of Gaps: The Postcode Lottery of Violence Against Women Support Services*, London, EVAW and Equality and Human Rights Commission.

# CROSS-CUTTING THEMES

## Multiplicity versus coherence

The government has undertaken, sponsored or otherwise encouraged an array of initiatives on violence against women since the last UK report to CEDAW. Many of our concerns remain despite this plethora of activity.

There is fragmentation and incoherence in the government's work on violence against women, evidenced by the lack of a Plan of Action. Outside Scotland, work takes place in an ungendered framework and the NGO sector has had to campaign vigorously for the Gender Equality Duty to be applied to work on violence against women. There is no oversight body, such as a Commission on Violence against Women or an Observatory. There is also no clarity as to how violence against women will be integral to the work of the Equality and Human Rights Commission.

There is a failure to address violence as a human rights issue, and one that affects every aspect of women's lives. The Government Equalities Office, as well as the (former) Equal Opportunities Commission, has been weak on policy debates on violence against women, which have been strongly driven by NGOs, the Women's National Commission and, most recently, the End Violence Against Women coalition.

The government has encouraged the marketisation of the voluntary sector, causing NGOs to be in competition with each other and with statutory/private sector organisations. This has made the specialist violence against women sector increasingly unstable and insecure at a time when women's increasing willingness to disclose violence places ever greater demands on it.

Best practices commended by government have not been mainstreamed so remain peripheral to the bulk of everyday practice and policy; provision remains inequitably spread across the country (see Map 1 below<sup>4</sup>), which shows the number of specialist support services on violence against women per local authority across the UK. A lack of coherence also means that policy clashes exist between different sectors.

We consider all gender-based violence to be

<sup>4</sup> From M Coy, L Kelly, J Foord with V Balding and R Davenport (2008) *Map of Gaps: The Postcode Lottery of Violence Against Women Support Services*, London, End Violence Against Women in partnership with the Equality and Human Rights Commission.

connected, as reflected in the international human rights framework. Different forms of violence are also connected in the experiences of women and girls, for example: sexual harassment can include verbal abuse, sexual assault and in some instances rape; domestic violence embraces psychological, physical and sexual violence, as well as financial abuse. In addition, strong evidence exists that similar dynamics of power and control operate in all forms of gender-based violence and that they share common impacts and consequences.

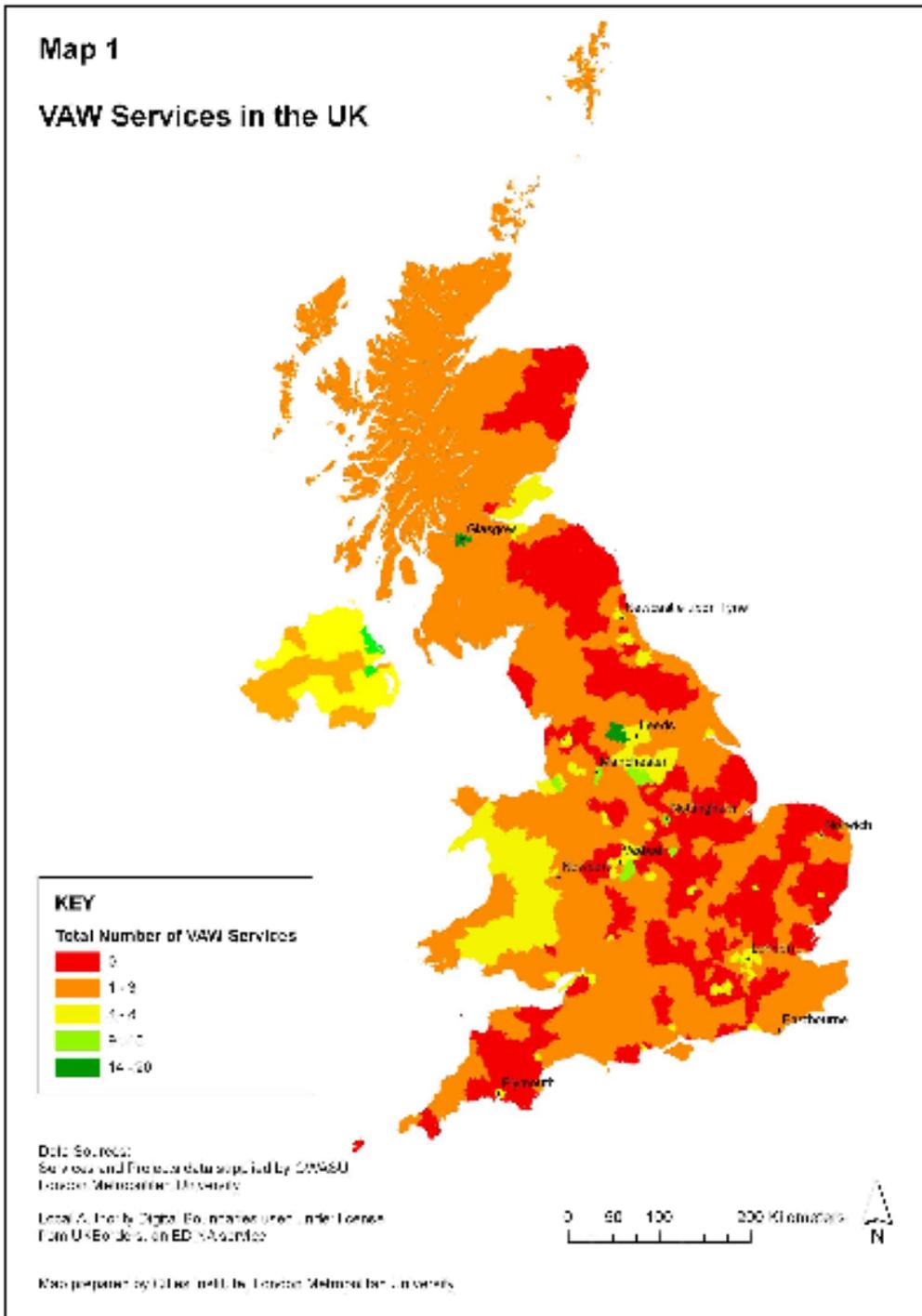
We are especially concerned about women who suffer multiple forms of violence, including sexual abuse in childhood, whether by the same person or a series of perpetrators. They are among the most vulnerable and sustain harms to their health, well-being and life chances. The separation of forms of gender-based violence in current policy and practice means the complex needs of such women are seldom recognised, let alone addressed. This in turn leads to the over-representation of such women in mental health, substance misuse and prison services<sup>5</sup>, as well as their entrapment in the sex industry and other abusive relationships. We also note with concern the limited progress made in addressing the vulnerabilities of disabled women and girls.

## Immigration and refugee and asylum-seeking women

National discourses on immigrants, refugees and asylum seekers are located in a context of popular suspicion and deprecation particularly promoted by sections of the media but assisted by language and initiatives at policy level. These include the official dichotomisation of 'bogus/genuine' asylum seekers that meshes with a tendency to disbelieve and have little sympathy for those seeking protection in the UK. Government commitments to process applications speedily and carry out deportations can result in applications being handled with undue haste and with considerable room for mistakes. This is especially the case in relation to gender-based violence, which women do not always reveal at first interview, especially if the interviewer is male and/or lacks awareness of and sensitivity to the shame associated with sexual victimisation, as recognised by UNHCR.

Government policies disperse asylum seekers primarily outside urban areas in which networks

<sup>5</sup> See, for example, the recent publication by J Corston (2007) *The Corston Report: A Review of Women with Particular Vulnerabilities in the Criminal Justice System*, London, Home Office.



and support services are established, placing such groups in accommodation or immigration removal centres. These approaches, we argue, differentially affect women who have been subjected to gender-based violence. They isolate such women from each other and from communities and services that could support them. In addition, gender-based persecution, including a range of experiences of violence, is not consistently

recognised as grounds for asylum despite the lack of state protection.

Financial differentials operate at policy levels which discriminate against immigrants and asylum seekers. Asylum seekers are entitled to state welfare at only 70% of the level of standard benefits. Nevertheless, the use of certain state systems such as the NASS helpline, involve costs of access.

A rule of 'no recourse to public funds' denies state support for those with uncertain immigration status, in turn limiting their access to services they cannot personally afford, such as refuge provision. The only way they can currently avail of such support is if the shelters themselves bear the costs of taking them. Those who enter the UK on the basis of marriage are required to remain in that relationship for two years in order to secure residence and access to state support. Ending the relationship within that period, even if due to violence, limits access to support. There are only limited and discretionary allowances to remain in the UK in cases where proof of domestic violence can be given. Immigration status therefore shapes the level and nature of protection from violence.

The extension of the residence requirement in 2003 from one year to two years occurred in spite of continuous feedback to the government from the voluntary sector on the damaging effects of the 'one year rule'<sup>6</sup> on a small, but deeply oppressed, group of minority ethnic women living in the UK. Of further concern is the fact that a current government consultation process on 'Marriage to Partners Overseas' contains proposals to extend this period to five years. Despite total unanimity in the specialist sector, and a long-standing campaign on the matter, the right to remain is subject to discretion; this clearly has discriminatory impacts.

Women are trafficked into the UK for exploitation in prostitution, as well as into domestic service, bonded labour and for marriage. The government's under-identification of abuse in the trafficking process and an over-hasty process of dealing with women results in too many trafficking victims being viewed and treated as illegal migrants. Remarks by the Home Secretary in 2007<sup>7</sup> suggest an entrenchment of the misapprehension that those who are the victims of trafficking should be understood as criminals and liable to deportation. Speedy deportations compromise the safety and well-being of women who have experienced abuse and they remain vulnerable upon return to their countries of origin. Such actions also set a poor context for state obligations arising from the Trafficking Protocol to the Convention on Transnational Organised Crime 2000.

<sup>6</sup> The requirement was that a spouse should remain in a relationship for 12 months prior to seeking residency in the UK. This was known as the 'one year rule'.

<sup>7</sup> A Travis (2007) Sex trafficking victims rescued by police may face deportation, *The Guardian*, October 4, <http://www.guardian.co.uk/crime/article/0,,2182973,00.html>.

The UK is introducing a points-based system for labour migration in which gender equality is not guaranteed due to poor conceptualisation of women's experiences and a gender-biased model of career development. The gender discriminatory aspects of the new system run the risk that with few legal labour migration routes available, irregular migration will provide the only alternative for women, thus strengthening the role of traffickers and smugglers who will prey on their vulnerability.

### **Rural women**

The UK includes large rural areas, particularly in Scotland and Wales. All services are less accessible to women in such regions (see Map 1 above). The lack of well-resourced 24-hour helplines addressing all forms of violence has particular implications for rural women, since this is the one form of service to which they could potentially have equal access. Appropriate provision has also been significantly undermined by the lack of ongoing government funding for outreach services that are a mainstay of rural provision.

Welsh and Northern Ireland Women's Aid have been effective in developing rural services but lessons from their work have not been transferred into statutory policy and provision across the UK and relate only to domestic violence. In Scotland, services are still far from being fully resourced but significant developments have taken place over the past few years: there is a 24-hour domestic abuse helpline, Rape Crisis Scotland opened a national rape crisis helpline in October 2007 and four new Rape Crisis Centres have opened between 2003 and 2007 – these significantly improve access to services for rural and island communities.

### **Prevention and awareness raising**

There is no coherent prevention strategy in the UK, despite a strong track record in other policy areas where there have been successful public health and safety campaigns (for example, on drink driving, smoking and HIV/AIDS). This is all the more remarkable and regrettable given the pervasive nature of gender violence compared to these other issues.

Local authorities in England and Wales have been required to promote a domestic violence education pack<sup>8</sup>, nevertheless schools are not required to use it. Children and young people are given inadequate education and information at school about domestic violence and child abuse that would help them maximise their own safety.

<sup>8</sup> Under Best Value Performance Indicator 225.

There is no requirement that gender violence be addressed in the school curriculum, nor is there a baseline principle that health promotion with respect to 'safe sex' should begin from the premise that sex is consensual. There is strong evidence of tolerance and justification of male abuse of women among young people in the UK: a survey<sup>9</sup> found that 45% of teenagers believe that in some circumstances it is acceptable for a boy to assault his girlfriend. This tolerance of abuse which reproduces gender inequality needs to be challenged through education and prevention measures.

Innovative pilot projects have been initiated in the voluntary sector, such as by Womankind, and provide a helpful lead that could be taken up by government. Womankind's work highlights some key issues that remain to be addressed about the teaching profession itself, such as the poor understanding of gender and violence against women, particularly amongst younger women.

Existing interventions are localised, short-term, often gender-neutral and focused on a single form of violence. The government has funded only a small part of this work. Scotland provides a number of helpful positive examples: the Scottish Executive (now Government) has for a number of years run an annual domestic abuse advertising campaign; the Zero Tolerance (ZT) campaign has run in much of Scotland over a number of years (although whether or not to run the campaign was decided by local, not central, government). The lessons from ZT, on which other countries have drawn extensively, are that: an integrated violence against women campaign is both cost-effective and has value-added outcomes; strong uncompromising messages are welcomed by survivors and generate debate widely; and such campaigns are regarded as a positive use of public funds by local communities.

### **Professional training**

Some professional training initiatives exist, although they are not part of a strategic approach which would ensure that all initial qualification curricula address violence against women and that in-service training continue to update knowledge and skills. Some professionals currently receive little, if any, training on these issues yet find themselves regularly dealing with gender-based violence in their workload. We include here all those working in the health, welfare, social services, education and criminal justice fields.

<sup>9</sup> Survey of 2,000 teenagers by teen magazine *Sugar* in 2005.

The Scottish Government worked with the National Group to Address Violence Against Women to draw up a training strategy. Regional training consortia, funded centrally, plan and develop multi-agency training. The training framework is in transition from a single focus (domestic abuse) to a broad focus on violence against women.

### **Community, faith and fundamentalisms**

There appears to be a danger that appeasement of 'faith communities' is dominating public policy, discourse and resourcing to the point that many women, especially those experiencing or in danger of violence, are marginalised even further.

In addition, the re-casting of ethnic minorities as solely or primarily framed by religious concerns means that secular black and minority ethnic women's groups are increasingly marginalised and fear reduced funding. There are tensions in policy approaches between the government's social cohesion agenda and the new ways of commissioning services and the retention and expansion of specialist violence against women services. The UK has a reputation in Europe for innovative and responsive NGOs, but the entire sector, and especially BME groups, are under threat as the impacts of these new policies have not been anticipated. In contrast, religious groups are being funded in the fight against terror, some of which have, and promote, conservative or even fundamentalist agendas on women.

### **Strategic infrastructure**

Government attempts to co-ordinate policy development and implementation across several ministries are welcome. Yet, until recently, in England and Wales there was no clear central location for gender-based violence. Lead officers on domestic violence, rape and sexual assault, female genital mutilation (FGM) and forced marriage were spread across departments and ministries with inadequate co-ordination. Recent changes suggest improved linkages, under a domestic/interpersonal violence heading but within a crime agenda. The necessary linkage across forms of violence is still not evident at local levels, with only three areas in England and Wales having multi-agency forums that focus on violence against women rather than the much more limited area of domestic violence.

### **Research**

Official data, indicators and research on violence against women in the UK remain an area of concern and indicate a lack of will on the part of the government either to provide, or enable, a reliable and credible base of information or to facilitate and fund an adequate, dedicated research programme.

Research initiatives are inhibited by the absence of systematic, consistent or reliable data. Poor central funding and inconsistent government support has meant that many are of a smaller scale than desirable, are not longitudinal and are concentrated on few forms of violence. There is no body with an overview of research across the range of violence nor one which disburses adequate funds or seeks to ensure a strategic direction for research.

Statistics Canada oversees regular reporting systems and the Nordic countries have had specific research programmes. Both of these provide fertile models for adaptation to the UK context.

## Questions

### for the committee to consider...

- 1** When will the government produce a long-term, holistic and integrated strategy on violence against women that will include prevention work?
- 2** In what ways does the government recognise, and reflect in its work, the inter-connections across all forms of gender-based violence and their role as cause and consequence of gender inequality (as noted through CEDAW, DEVAW)?
- 3** Will the government acknowledge the experience and evidence that demonstrates the need for safe, separate services for women and their children who experience gender-based violence? What steps will the government take to secure and extend current levels of provision?
- 4** When will the government ensure that well-resourced national helpline(s) are available to all victims of gender-based violence? In what ways and when does the government intend to address the gaps in provision across the forms of violence and geographic regions of the UK?
- 5** Does the government recognise that there are groups of women and girls who sustain profound harm and/or are especially vulnerable, whose needs are not currently being addressed? In what ways, and when, will this be addressed?
- 6** How and when will the government ensure that gender guidelines are comprehensively integrated into all aspects of the asylum determination processes from initial decision making through to appeals?
- 7** How does the government intend to address access to services and support for rural women, drawing on the lessons from Wales and Northern Ireland?
- 8** Does the government agree that prevention work needs to be consistent, integrated and sustained over time? How will this be built into policy, practice and research?
- 9** How and when will government ensure there is training or guidelines are provided to local and central government to ensure the gender equality duty is properly understood and applied? For example, by undertaking a gender impact assessment whenever new asylum procedures are adopted.
- 10** Will the government support the development of a core training curriculum for all professionals and a manual on gender-based violence? When and how will this be realised?
- 11** When will the government abolish the 'no recourse' rule and thereby provide equivalent protection and access to services for women currently excluded by this provision?

# 1. Domestic Violence

Government attention to the significant issue of domestic violence has been in response to NGOs, individual women working at local level and a proactive research agenda. The introduction of the National Domestic Violence Delivery Plan in England in 2005 has resulted in a range of initiatives, primarily in the criminal justice system, some elements of which appear to have had positive outcomes. However, the gender neutrality of the Plan has implications for the effectiveness and quality of provision at the local level. Major remaining concerns relate to the lack of co-ordination and oversight at a national level, limited attention to prevention work, the outstanding gap in strategic approaches and uneven and limited provision across the country, particularly in rural areas and for key groups of women, including refugees and asylum seekers. Children who live with domestic violence also remain poorly served.

Despite significant developments in policy and guidance by major statutory agencies<sup>10</sup> at national level there is inconsistent implementation at the local level. With the exception of the CPS, this is not monitored and followed up consistently at national level.

## Data

According to the British Crime Survey, 26% of women in 2001 and 25% in 2004/5 experienced non-sexual interpersonal violence, yet only 24% of women survivors report to the police.<sup>11</sup> In fact, government figures for crime in England and Wales show a decrease in reports of domestic violence between 1995 and 2006/7, although in the last two years reports have increased.

The proportion of domestic violence cases that are prosecuted has increased by 15% since 2005-6 and successful outcomes have increased 5.5% since 2005-6, and 19% since 2003. Following the implementation of a new Domestic Violence Policy in the prosecution service the number of successful prosecutions for domestic violence has increased to an average of 63%. However, less than 10% of

cases handled by the police go forward for prosecution.<sup>12</sup>

The sexual dimensions of domestic violence remain poorly recognised and resourced.

Although there is increasing attention to the measurement of domestic violence there is as yet no robust system in place to achieve this, leading to apparently contradictory trends in different sources of data. The government should routinely put into the public domain the data on the number of incidents of domestic violence reported to the police, as recommended by the Home Office Select Committee.

The British Crime Survey currently fails to count the total number of incidents of violence women sustain – as other forms of crime are currently measured – and thus the proportion of violent crime that is domestic and is sustained by women is severely underestimated. A review of the ways in which data on domestic violence is collected and presented is needed.

Since the last UK CEDAW report, the government has introduced several policy and legislative changes in Wales and England. However, there is poor implementation of some of these, in particular the guidelines on Parental Contact, leaving women and children vulnerable in contact arrangements.

The Domestic Violence (Crime and Victims) Act 2004 was a missed opportunity to create a specific offence of domestic violence or to introduce good practice from outside the UK, for example, the 'the removal law' which forms the basis of responses in Austria, Germany and Switzerland. Rather, it introduced a number of lower-level amendments to existing law, some of which have yet to be implemented.

A Delivery Plan for England and Wales was put in place in 2005 and is currently under revision. In it, the internationally acknowledged gender-based dimensions of domestic violence are minimised.

## Current limitations and areas for further action

Despite increasing and proactive work, significant gaps remain. Most government initiatives outside

<sup>10</sup> Mainly the Crown Prosecution Service, the police, Ministry of Health, Department for Children, Schools & Families and Ministry of Justice.

<sup>11</sup> S Walby and J Allen (2004) *Domestic Violence, Sexual Assault and Stalking: Findings from the British Crime Survey*, Home Office Research Study 276, London, Home Office.

<sup>12</sup> Kelly et al (2008) *Measure for Measure* London Criminal Justice Board Domestic Violence Research Project, London, CWASU.

Scotland are based in a crime framework, offering a welcome understanding of domestic violence as a crime but failing to acknowledge that coercive control presents in multi-faceted ways. For example, regrettably little attention is paid to the effects of domestic violence in relation to health, community support and social exclusion.

There is no legal definition of domestic violence but a recommendation from the Home Office is as follows:

[Domestic Violence includes] any incident of threatening behaviour, violence or abuse, (physical, psychological, sexual, financial or emotional) between adults who are or have been intimate partners or are family members, regardless of gender or sexuality<sup>13</sup>.

The relationship between domestic violence and violence against women is not made clear and there is no reference to international understandings as per CEDAW Rec 19, DEVAW or the Beijing Platform for Action.

Recent changes to the structure and nature of payments to legal practitioners has had a detrimental effect on their willingness to take up complex cases. This includes many domestic violence cases and others that involve experiences of violence. Legal aid work on immigration and asylum cases has been curtailed and it is virtually impossible to get a publicly funded solicitor to do this work. This has a major impact on women with immigration and asylum problems.

The 'Supporting People' funding stream has sustained funding for shelters over the last five years. The move towards local commissioning through competitive tendering will place small, specialist, more costly, services such as shelters at a disadvantage compared to larger commercial providers which can operate at lower costs. This means shelter services are, once more, being placed in an insecure position, exacerbated by the gender-neutrality of the National Domestic Violence Delivery Plan.

### Vulnerable women

The 'no recourse to public funds' rule means that women with unsettled immigration status cannot access public provision, including shelters and social welfare benefits. Many shelters cannot accept women without the capacity to pay their rent. Such women are vulnerable to destitution and worse or find themselves having to remain in, or

<sup>13</sup> Subsequent text indicates that this definition also refers to honour crimes, forced marriage and female genital mutilation.

return to, abusive relationships. If shelters do accept such women, they have to fund the places themselves<sup>14</sup>.

There have been over ten years of campaigning on this issue by the NGO sector yet the UK government continues to deny equal protection and subjects women to the vagaries of discretion.<sup>15</sup> Research has shown that young women asylum seekers have been forced to trade sex for a floor on which to sleep.<sup>16</sup>

There remain several identifiable groups of women whose needs remain unmet. Asian women<sup>17</sup> are up to three times more likely to commit suicide than women in the general population; contributions to this figure include domestic violence and other oppressive practices in the family. Rural women tend to have few, if any, services – 12% of rural women in shelters across Wales<sup>18</sup> had no access to basic NHS Service such as a doctor or dentist and limited access to confidential services. Disabled women are known to under-report and have minimal access to services provided either by statutory or voluntary agencies. Mothers with disabilities have a justified fear of losing their children if they report domestic violence.

### Inequitable distribution of services

Major gaps remain in the provision of support services (see Map 1). These include services that are known to be effective in supporting women and children: outreach services which do not require women to go to a refuge; specialist services for minority ethnic women; services for women with complex needs such as problematic substance use or mental health problems; women with disabilities; those with learning difficulties; outreach projects for children or for older women; and funding to support children in shelters.

Scotland once more provides a more hopeful

<sup>14</sup> 3% of residents in Welsh shelters in 2006-7 had no recourse to public funds. In the same year Black Association of Women Speak Out (Wales) supported 75 women with no recourse.

<sup>15</sup> The 'no recourse' rule also impacts upon trafficked women and overseas workers who are subject to exploitation by their employers. Opposition to this rule has also come from those working with these groups of women.

<sup>16</sup> Amnesty International (2006), *Down and Out in London: The Road to Destitution for Rejected Asylum Seekers*, London, Amnesty International, 14.

<sup>17</sup> VS Raleigh and R Balarajan (1992) Suicide and self-burning among Indians and West Indians in England and Wales. *British Journal of Psychiatry*, vol. 129, 365–368.

<sup>18</sup> Welsh Women's Aid statistical package *Datagate*, April 2006–November 2007.

example – £6million was allocated by the Scottish Executive in 2006 to Women's Aid to develop services for children and young people. This funding has had a significant impact on the range and quality of services available. Yet in Scotland there are still concerns that funding has not been protected for the future.

The Children Act amendment that includes witnessing or hearing violence in the definition of 'harm' is welcome. It means that the government's Every Child Matters agenda should include local provision for children and young people who live with domestic violence. Yet very little is being done. On the contrary, all too often mothers who are victims of domestic violence themselves are being held accountable for failing to protect their children.

### Dangerous contact

There is now overwhelming evidence that child contact is a primary avenue for continued post-separation violence, and in recent years 29 children have been killed during contact with their fathers<sup>19</sup>. Concerns for safety, however, appear to be trumped by an ongoing commitment from judges and magistrates to maintaining contact for parents following separation<sup>20</sup>.

### Homicides

Despite the fact that women are much more likely to be killed than to kill, women charged with the murder of abusive partners are further victimised by a legal system that has been constructed and interpreted through the lens of men's experiences and behaviour. New legal precedents in the interpretation of defences to murder were won by women's groups in the Court of Appeal. However, there is a lack of consistency in the application of these new understandings and abused women are not only continuing to be convicted of murder but also, on occasion, receiving higher sentencing tariffs than men who have abused their victims over many years. The Domestic Violence Act introduced the offence of domestic homicide, allowing a victim of domestic violence to be prosecuted for their child's homicide through neglect, even if the homicide was carried out by the partner.

<sup>19</sup> H Saunders (2004) *Twenty-Nine Child Homicides: Lessons Still to be Learnt on Domestic Violence and Child Protection*, Bristol, Women's Aid.

<sup>20</sup> In Scotland, an alliance of organisations led by Scottish Women's Aid was successful in amending the Family Law (Scotland) Act 2006. This requires sheriffs who are considering applications for contact to take into account the welfare of the child, including an assessment of whether contact with the parent would place the child at risk of abuse.

There have been many claims made on the basis of falling rates of domestic homicide. However, conclusions can only be tentative when there is a failure to investigate both the degree to which the fall is made up of a drop in women killing in self-defence and the persistent levels of men killing women.

### Perpetrators

Perpetrator programmes exist and have developed good practice. However, provision is inadequate with demand outstripping supply. The current government focus on reaching targets in isolation from developing further provision is contributing to the build up of a bottleneck in this area of work.

Minimum standards are not implemented and resourced; these should be integrated and safety-focused and provide a service for partners and ex-partners. The probation service is providing some new programmes but without the services for (ex-) partners and their children, as recommended by RESPECT<sup>21</sup>.

Risk assessment for perpetrators of violence where there are issues of child protection and child contact is undeveloped.

## Questions

### for the committee to consider...

- 1 How does the government justify not following recommendations in the Beijing Platform for Action, and other UN documents, in creating a specific offence of domestic violence?
- 2 Has the government reviewed the 'removal law', which is recommended good practice in Europe, with a view to its application in the UK?
- 3 What measures will be taken to ensure that all women and children who have experienced domestic violence have access to a range of safe support and outreach services, including shelters?
- 4 In what ways, and from what date, will the government ensure the protection of the specialist sector in the process of service commissioning?
- 5 Will the UK government consider introducing legislation, such as in New Zealand, whereby contact following domestic violence is awarded only when the court is satisfied that it is safe for women and children?
- 6 How does the UK government intend to ensure comprehensive national spread of domestic violence courts, MARACs and perpetrator programmes?
- 7 What plans does the government have to extend

<sup>21</sup> RESPECT is the UK association for domestic violence perpetrator programmes.

the work of advocates to women not designated at 'high risk'?

**8** How does the government plan to ensure that children and young people who have lived with domestic violence have access to support?

**9** When will the government undertake a systematic review of convictions and tariffs for women currently serving life sentences for killing

their abusers?

**10** Will the UK government ensure that adequate legal aid is provided to ensure all women are able to use the legal system to obtain protection from gender-based violence, such as injunctions, legal help with their immigration and asylum applications and appeals against refusal?

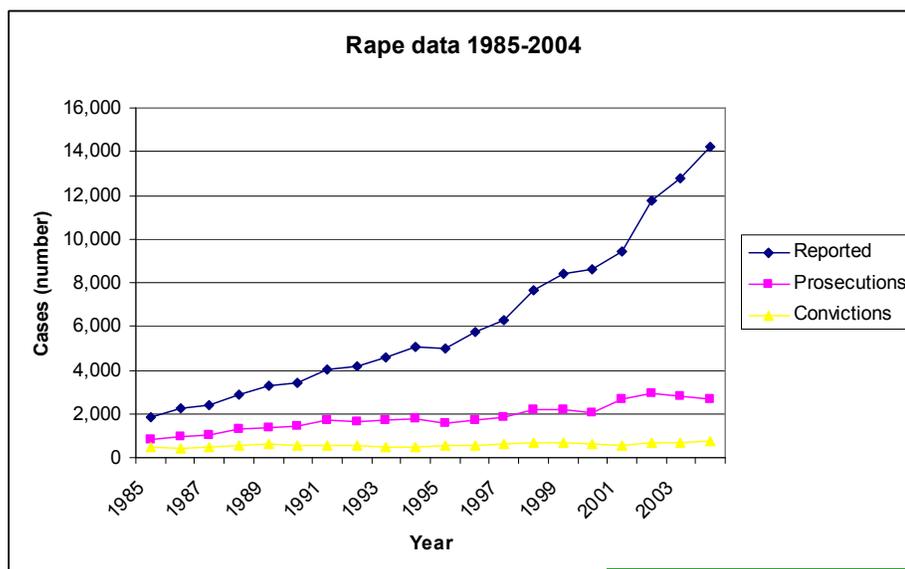
## 2. Rape & Sexual Assault

Policy and practice with respect to sexual violence have been relatively neglected in the UK. Some welcome progress has been made: the Sexual Offences Act 2003; the 2007 Sexual Violence and Abuse Action Plan; an increase in the number of Sexual Assault Referral Centres (SARCs) and special prosecutors. Yet a number of developments mean that the cultural attitudes that cast women as sexually defined and available for men's consumption have been renewed and deepened. Since the early 1990s, 'lap-dancing' clubs in England have tripled in number yet Rape Crisis Centres have almost halved. As a percentage of reports, rape convictions remain alarmingly low (see chart below) and are among the lowest in Europe.<sup>22</sup> Serious gender issues permeate the conceptualisation and practice of the law in the UK, with bias and prejudice inhibiting women's fair treatment in the criminal justice system and some women effectively being constructed as 'unrapeable: those with mental health problems, learning disabilities and/or those who have made previous allegations.<sup>23</sup>

blurred understanding of what consent means<sup>24</sup>. Sex education in the UK is blighted by inconsistent (if any) provision across authorities and the absence of a core curriculum. Sex education is not rooted in the concepts of sexual autonomy and sexual engagement. This remains a matter of concern and means young people are poorly equipped or supported for sexual life<sup>25</sup>.

The UK is starting to compile a national knowledge base on sexual violence since inadequate national research has been undertaken to date. The BCS records violence both through face-to-face interviews and through a self-completion element. The lifetime prevalence rate of sexual assault captured in the BCS rose from 17% in 2001 to 23% in 2004/5. A minimum of 80,000 women suffered attempted or completed rape, only one in eight of which was reported.<sup>26</sup>

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Consent is central to rape law in the UK but research with young people reveals that they have

<sup>22</sup> L Regan and L Kelly (2003) *Rape: Still a Forgotten Issue*, London, Child and Woman Abuse Studies Unit.

<sup>23</sup> L Kelly, J Lovett and L Regan (2005) *A Gap or a Chasm? Attrition in Reported Rape Cases*, Home Office Research Study 293, London, Home Office. See also A Feist et al (2007) *Investigating and Detecting Recorded Offences of Rape*, Home Office Online Report 18/08, <http://www.homeoffice.gov.uk/rds/pdfs07/rdsolr1807.pdf>.

<sup>24</sup> L Regan and L Kelly (2001) *Teenage Tolerance: The Hidden Lives of Irish Young People*, Dublin, Dublin Women's Aid.

<sup>25</sup> Independent Advisory Group on Teenage Pregnancy and the Independent Advisory Group on Sexual Health and HIV (2006) *Personal, Social and Health Education in Schools: Time for Action*, [http://www.dh.gov.uk/prod\\_consum\\_dh/groups/dh\\_digit\\_assets/@dh/@en/documents/digitalasset/dh\\_4127821.pdf](http://www.dh.gov.uk/prod_consum_dh/groups/dh_digit_assets/@dh/@en/documents/digitalasset/dh_4127821.pdf).

<sup>26</sup> S Walby and J Allen (2004) *Domestic Violence, Sexual Assault and Stalking: Findings from the British Crime Survey*, Home Office Research Study 276, London, Home Office.

What remains consistent is that the majority of rapes – both reported and unreported – are committed by known men, with current and ex-partners significantly represented.

Relatively little evaluation of responses to sexual violence has been undertaken and government support for statutory sector SARCs remains at the expense of community-based rape crisis and survivors' groups. Thus groups which have existed and built expertise in this area for over 30 years have been sidelined. The introduction of Victims Fund monies is welcome, however it is insubstantial and the process breaks the funding Compact made by the government with the NGO sector. The principle underlying the allocation of these funds is of competition rather seeking to ensure equitable provision of vital services. Scotland has a somewhat better record, with £3 million per year for 2006-8 being allocated to a Violence Against Women Fund and some of this ring-fenced to Rape Crisis Centres. Consequently, Scotland is the only part of the UK where such provision has expanded.

#### **Increased reporting/declining conviction rate**

Reporting of rape to the police has increased year on year for three decades, whilst the number of convictions has remained virtually constant. This means that whereas in 1977 a reported rape in England and Wales had a one in three chance of resulting in a conviction, by 2004 this had fallen to an all time low of 5.3%. A similar pattern prevails in Scotland with conviction rates comparing unfavourably to most countries across Europe. Whilst the UK governments have recognised the problem to some extent, there has yet to be a concerted attempt to address it. Rather, legal reform and policies have focused on small elements of the process whilst neglecting the consensus in much academic research – that investigative, procedural and legal frameworks are still implicitly based on a stranger rape model and gender discriminatory beliefs about appropriate behaviour for women and men. One clear example is that, despite two sets of legal reforms, the government has failed to ensure that evidence with respect to the sexual history of complainants is not routinely introduced to undermine women's credibility in rape trials.<sup>27</sup>

Recent research published by the Home Office<sup>28</sup> found that certain categories of rape offences –

<sup>27</sup> L Kelly, J Temkin and S Griffiths (2006) *Section 41: An Evaluation of New Legislation Limiting Sexual History Evidence in Rape Trials*, Home Office Online Report 20/06, <http://www.homeoffice.gov.uk/rds/pdfs06/rdsolr2006.pdf>.

<sup>28</sup> L Kelly, J Lovett and L Regan (2005) *A Gap or a Chasm? Attrition in Reported Rape Cases*, Home Office Research Study 293, London, Home Office.

gang rapes, rapes of women with learning disabilities or mental health problems and rapes of young women – are much less likely to result in prosecution. This means that some groups of women are consistently less well protected by the state.

A number of research studies have pointed to failures in keeping victim/witnesses informed about the progress of their case and many comment on the unfairness (compared to the defendant) of their not meeting the prosecution until the day of the court case. Training of criminal justice professionals has failed to ensure that they are availed of the most up to date knowledge about rape and its impacts, as recognised in 2007 by the inspectorates of the police and prosecutors<sup>29</sup>.

#### **Support services**

In terms of support services, relatively little investment at national and local levels has been made into rape and sexual assault. The recently launched Scottish national sexual violence helpline is the only such measure in the UK.

There are no national standards for forensic examination and in many parts of the country a female forensic examiner cannot be guaranteed, despite recommendations on this dating back to 1985. This situation is deteriorating; where there are no statutory sector SARCs, police are contracting out to private health providers without establishing service level agreements to expand/ensure the provision of female examiners.

Rape Crisis Centres are historically chronically under-funded, with many areas of the country having no provision at all and others only one evening a week. Scotland has recently seen an expansion in the number of centres, yet in general rape crisis services remain substantially under-resourced. Several local crisis centres in England, Wales and Northern Ireland have closed since 2002; some continue to try to operate despite having less than £5,000 annual income.

Rape is recognised by the WHO as having serious health impacts, yet in the UK the health sector and health policy has been extremely slow to recognise this, especially in the mental health and prison sectors. The Department of Health (DoH) policy on women's mental health<sup>30</sup> recognised the significance of sexual violence in childhood and adulthood for women's mental health. However,

<sup>29</sup> HMCPSI (2007) *Without Consent: A Report on the Joint Review of the Investigation and Prosecution of Rape Offences*, London, HMCPSI.

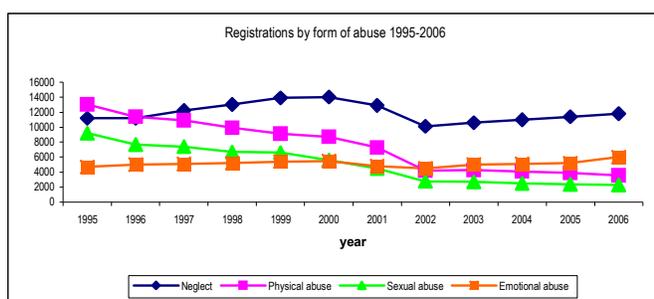
<sup>30</sup> Department of Health (2002) *Women's Mental Health 'Into the Mainstream'*, London, DoH.

the policy has never been implemented. Similar reports on women in prison<sup>31</sup> are in danger of facing a similar fate. While the shockingly low conviction rate must be addressed, emphasis must not only be on the criminal justice system at the expense of other sectors and services.

There are also health implications in the immediate response to recently reported rape, especially the need for forensic examinations. The first hospital-based SARC was founded in 1986 in Manchester and now there are nineteen. SARCs have been the key area of investment in the sexual violence sector by the government; however, they are statutory sector provision and do not have nationwide coverage. Indeed, the *Map of Gaps* report<sup>32</sup> shows that the vast majority of the population has no access to a SARC.

One group that is particularly poorly served by existing provision comprises adult women survivors of child sexual abuse. They slip through many layers of policy and provision and are only really catered for by the extremely poorly resourced Rape Crisis Centres, survivors' groups and a tiny number of specialist supported housing projects. A pilot helpline for adults who experienced childhood abuse received over 600 calls per week, suggesting vast unmet need.

There has been a significant fall in child sexual abuse cases registered under child protection procedures and a shift in emphasis to 'neglect' by the state and children's NGO sector. This latter change has meant that there are very few support services for girls and young women. The damaging effects of child sexual abuse, including vulnerability to re-victimisation, are thus not addressed.



<sup>31</sup> J Corston, 2007, *The Corston Report: A Review of Women with Particular Vulnerabilities in the Criminal Justice System*, London, Home Office.

<sup>32</sup> M Coy, L Kelly, J Foord with V Balding and R Davenport (2008) *Map of Gaps: The Postcode Lottery of Violence Against Women Support Services*, London, End Violence Against Women in partnership with the Equality and Human Rights Commission.

## Questions

### for the committee to consider...

**1** In what ways and when will the UK governments adopt a comprehensive strategy to address the declining conviction rate for rape and sexual assault? In particular, how will they address the 80% of cases that fall out of the process at the police stage?

**2** How do the UK governments intend to secure and expand women-only Rape Crisis Centres and survivors' groups?

**3** When and how will the UK governments commit to ensuring that all those reporting rape have access to a female forensic examiner?

**4** How and when does the government plan to ensure that young women/girls who have experienced child rape/child sexual abuse have access to independent specialist sexual violence services?

**5** Does the government agree that awareness needs raising among young people, and the wider community, about the meaning of consent? And if so how does it intend to address this?

**6** What plans does the government have to extend the work of Independent Sexual Violence Advisors (ISVAs) to women and girls who choose not to report to the Criminal Justice System?

**7** How will the government ensure that politicians, officials and policy makers understand and appreciate the complementary roles and contributions of SARCs and Rape Crisis Centres?

**8** When does the government intend to establish a national sexual violence helpline for England and Wales, which is backed up by a sustainable network of support services?

**9** When will the government recognise and put into place measures to address the needs of adult survivors of sexual abuse?

**10** Will the government give consideration to exploring the apparent fall in registrations for child sexual abuse?

## 3. Trafficking, Exploitation & the Sex Industry

Trafficking into the UK supplies people to the sex industry and other cheap, exploitative labour markets and it occurs within, as well as across, national borders, as recognised by the UN CTOC Palermo Protocol to which the UK is a state party.

Trafficking and the sex industry are fundamentally linked; women are trafficked for sexual exploitation into existing sex industries. Inequality between men and women underpins trafficking by shaping gendered vulnerability to recruitment and entrapment through gendered impacts of conflict, economic transition and poverty, as well as life experiences of child sexual abuse, domestic violence and marginalisation.

Recent positive initiatives in the UK include the signing of the Council of Europe Convention on Action on Trafficking in Human Beings, and expanded funding for the Poppy Project, which assists and shelters women who have been trafficked into the UK for sexual exploitation – though provision is still insufficient and based only in two city centres. In particular, we note and welcome the prostitution review that remains ongoing in for the first half of 2008.

A UK Human Trafficking Centre (UKHTC), hosted by the police, was established in 2006 yet there remain concerns about identification being dependent upon police and immigration systems.

International trafficking into the UK continues and internal trafficking remains a significant problem. There is a very close linking of trafficking with immigration concerns at policy level, which results in a focus on international trafficking into the UK. The Poppy Project, which works with victims of trafficking, notes an increase in reports of young women who have been trafficked from one part of the country to another but for whom there are almost no support services. Faith-based groups are now providing a substantial amount of support services and competing against groups like Poppy. Internal trafficking needs not only to be better recognised but there need to be better services and support provision.

Statistics will always be an uncertain measure in an underground and illegal context but they are of interest. In 2000, it was estimated that up to 1,420 women were trafficked into the UK for sexual

exploitation.<sup>33</sup> In 2004, less than one fifth of women working as prostitutes in flats, parlours and saunas in London were originally from the UK<sup>34</sup> and the highest estimate suggests that there are 10,000 migrants with uncertain immigration status working as prostitutes in Britain, with three-quarters of women in brothels hailing from the Baltic States, Africa and South East Asia<sup>35</sup>.

Other forms of exploitation for which women are trafficked into the UK include domestic labour, a sector in which women are concentrated, extremely vulnerable and very poorly supported. Changes currently proposed to immigration legislation by government risk trapping such women in exploitative situations.

### The sex industry

The knowledge base on trafficking in women into and within the UK is limited, with few studies and belated government attention. Recent research from the NGO sector dramatically illustrates the growth, extent and normalisation of the sex industry and commercial sexual transactions.

The internet has grown as a pimping and advertising tool, facilitating the quiet growth of demand. In 2000, 8.8% of men surveyed in the UK were found to have bought sex<sup>36</sup>. Punternet, a popular website used by men who buy sex, lists 1,176 geographical locations in the UK where women are available for purchase. The site houses 40,599 'field reports' averaging 20 reports every day. This information focuses specifically on the parlour and sauna scene, which is seen as more acceptable.

<sup>33</sup> L Kelly and L Regan (2000) *Stopping Traffic: Exploring the Extent of, and Responses to, Trafficking in Women for Sexual Exploitation in the UK*, Police Research Series Paper 125, London, Home Office.

<sup>34</sup> S Dickson (2004) *Sex in the City: Mapping Commercial Sex Across London*, London, The Poppy Project.

<sup>35</sup> M Townsend (2005) 'Sex with trafficked women is rape', says minister, *The Observer*, 16 October, [http://www.guardian.co.uk/crime/article/0,,1593410,00.html#article\\_continue](http://www.guardian.co.uk/crime/article/0,,1593410,00.html#article_continue).

<sup>36</sup> H Ward, CH Mercer, K Wellings, K Fenton, B Erens, A Copas and AM Johnson (2005) Who pays for sex? An analysis of the increasing prevalence of female commercial sex contacts among men in Britain, *Sexually Transmitted Infections*, vol. 81, 467-71.

Subtle and pervasive methods of 'recruitment' of young women into prostitution operate in the UK and feed internal trafficking. Elements of these processes mirror those in the Palermo definition. Grooming of girls has been noted from the age of 11. Networks of young men known to them and older men at the next stage win their trust and confidence. This trust can then be strengthened through the giving of gifts (or dependence created through introduction to drugs) and is eventually abused in acts of sexual abuse and patterns of exploitation. Young women are especially vulnerable to introduction into the sex industry – it is estimated that in the UK between 50-75% of women in prostitution entered before they were 18<sup>37</sup>. Young women in state care, especially those with histories of abuse, are especially vulnerable to exploitation.

Demand in the UK is increasing: a third of the 10 million regular Internet users log in to pornography sites, the modern face of the sex industry, adding to annual revenues conservatively estimated at £70 million.<sup>38</sup> Most (70%) of this traffic occurs during working hours, underlining the increasing normalisation of the sex industry. Thanks to an aggressive advertising campaign, 'table dancing' clubs are increasingly marketed as 'cool', endorsed not only by celebrities but also by corporate clients such as Coca-Cola, Merrill Lynch and NatWest bank.<sup>39</sup>

These patterns have only recently begun to be documented and recognised – the government has yet to address these practices adequately.

In addition, much more attention needs to be paid to the questions of demand for commercial sex upon which the industry depends, as specified in the Palermo Protocol. This will require concerted and consistent work to win cultural change that undoes both the normalisation of the sexual objectification of women and the sense of entitlement displayed by men who pay for sex<sup>40</sup>.

<sup>37</sup> Home Office (2004) *Paying the Price: A Consultation Paper on Prostitution*, London, Home Office; M Hester and N Westmarland (2004) *Tackling Street Prostitution: Towards an Holistic Approach*, Home Office Research Study 279, London, Home Office.

<sup>38</sup> D Aitkenhead (2002) 'Net Porn', *The Observer*, 30 March, <http://observer.guardian.co.uk/0,3858,4636384,00.html>.

<sup>39</sup> B Flanagan (2002) 'Wage Slaves', *The Observer*, 5 May, <http://money.guardian.co.uk/work/wageslaves/story/0,11996,714994,00.html>.

<sup>40</sup> M Coy, M Horvath, L Kelly (2007) *"It's Just Like Going to the Supermarket": Men Buying Sex in East London*, London, Child and Woman Abuse Studies Unit.

## Domestic Labour

A significant number of migrant domestic workers are granted leave to enter the UK annually – 17,137 in 2005. Some of these experience deception from their employers about their work and the conditions in which they are expected both to live and work and some are subjected to abuse. Visa regulations and dependence on their employers compound vulnerability to exploitation. The Palermo Protocol includes a broad understanding of exploitation; the UK government must bring domestic and other forms of vulnerable labour into a wider understanding of trafficking and provide protection for this group of women. Immigration concerns cannot be permitted to override the government's legal obligation to address violence and exploitation.

Despite the government's acknowledgment that domestic workers are vulnerable to trafficking<sup>41</sup> and that legal protections introduced in 1998 made a positive contribution to these women<sup>42</sup>, this protection is now to be removed. The government's sincerity in claims of support for vulnerable women rings hollow.

## Laws and policies

Legal reform has been patchy. A rights-based approach is notably absent in the UK's approach to trafficking; ratification of the Council of Europe Convention provides an opportunity to redress this situation. Moreover, there is no legal right to protection, financial support or temporary residence (despite an EU Directive) for any non-national detected in the UK. Many women who are trafficked into the UK are brought in through legal means yet they, too, are not systematically identified or supported.

The policy tension between law enforcement agencies viewing trafficked women as victims and immigration agencies treating them as illegal migrants is yet to be resolved and it appears that current practice is to remove women within 48 hours if they are not co-operating with a prosecution. This is not good practice in terms of European policy, where a 'period of reflection' is recommended – both to enable assessment of safety for potential return and to offer support with

<sup>41</sup> Acknowledged, for example, in Home Office and Scottish Executive (2006) *Tackling Human Trafficking – Consultation on Proposals for a UK Action Plan*.

<sup>42</sup> Baroness Scotland noted in the House of Lords (26 March 2007) that the Government is "conscious that the changes we brought in greatly benefited domestic workers in this situation." See *Hansard*, <http://www.publications.parliament.uk/pa/ld200607/ldhansrd/text/70326-0001.htm#0703266000057>.

respect to potential prosecution.

Immigration policy into the UK is increasingly restrictive and has not been the subject of a gender audit. There has been no review of provisions against the ILO contention that legal migration possibilities are often implicitly discriminatory, privileging sectors such as construction and agriculture where men predominate, over others such as domestic service where there is demand for female labour.<sup>43</sup> Trafficking is not consistently recognised as an abuse of human rights nor as gendered persecution, with many women victims being denied asylum until they are able, on appeal, to challenge this decision.<sup>44</sup> Women who have been trafficked should always have access to women-only accommodation.

These policy gaps create gendered access to legal migration which, coupled with the ways transition and conflict have impacted on women, propels them to take illegal and dangerous routes to the UK. Women's economic and social position is undermined in unregulated and illicit markets, as power and control of legitimate and illegitimate sectors is increasingly concentrated in male hands.<sup>45</sup>

We are also concerned that, despite supporting some NGOs in countries of origin and an IOM return programme from the UK, little real effort is made to assess the potential for reintegration in countries of origin, leaving women vulnerable to re-trafficking and/or social exclusion. Much of the training and education elements in return and reintegration projects reinforce rather than challenge sex-segregated employment possibilities and offer limited potential for sustainable livelihoods.

### Violence and abuse

The government's prostitution policy of 2005 is welcomed, as is the recognition of some of the gendered harms of prostitution. Yet the minimal funding allocated to the initiative demonstrates an absence of political will in this area. Good practice has developed in Glasgow which should be expanded. The promised national debate in this area is awaited and urged: on demand and on whether or not the purchase of sex should be criminalised.

<sup>43</sup> PA Taran and G Moreno-Fontes Chammartin (2002) *Getting at the Roots: Stopping Exploitation of Migrant Workers by Organised Crime*, Perspectives on Labour Migration: 1E, Geneva, ILO, 10.

<sup>44</sup> S Richards, M Steel and D Singer (2006) *Hope Betrayed: An Analysis of Women Victims of Trafficking and their Claims for Asylum*, London, The Poppy Project.

<sup>45</sup> L Kelly (2002) *Journeys of Jeopardy*, Geneva, IOM, 15.

We urge a strategic response that understands and challenges the links between trafficking, the growth of the local sex industry, exploitative forms of labour outside the sex industry (especially in domestic work) and violence against women.

Further research is also required to assess: the long-term impacts of involvement in the sex industry on women; what makes exit possible and sustainable; the extent of the growth of the sex industry, including trafficking dimensions; the normalisation of demand; and links between organised crime and the sex industry.

## Questions

for the committee to consider...

- 1 What new and additional rights to protection will be forthcoming for victims of trafficking through the ratification of the Council of Europe convention?
- 2 When will the government conduct a gender audit to ensure legal migration routes are equally accessible to women, in line with the gender equality duty?
- 3 Will the government commit to ensuring protection for women domestic workers by maintaining the current visa arrangements?
- 5 How does the UK government plan to monitor the off-street sex industry and ensure that women working there are protected from violence?
- 6 When will the Gender Equality Duty be applied to immigration rules? When will a gender audit be carried out?
- 7 How does the UK government intend to address demand, including the normalisation of the sex industry?
- 8 Will the government place more emphasis on exit strategies from prostitution, including in its drugs and alcohol strategy? How and when will it do so? When and how is the government intending to invest in its prostitution strategy?
- 9 How does the government propose to increase prosecutions of those involved in pimping, procuring and internal trafficking?
- 10 When will the government consider allocating confiscated assets from traffickers and exploiters to services for trafficked women (support, housing, education and training) in the UK and countries of origin?
- 11 How does the government intend to raise the aspirations of young women beyond being a glamour model?

## 4. Crimes in the Name of 'Honour'

In recent years, there has been increasing attention at the national and international level to the killings of women committed in the name of honour; killings prompted by incidents such as women's attempts to select marriage partners, seek divorce or other behaviour deemed to breach culturally defined codes of honour. Violence and discrimination against women in the name of honour, by physical or psychological means, can result in social exclusion, denial of access to education and employment, ill-health, loss of potential and loss of life. Defining community honour as resting upon the respectability of women can lead to women's expressions of independence being constructed as problematic, including freedom over their sexuality.

Currently, there are no data available on the number of women either at risk, or actual victims, of 'honour' crimes. Although the police and the Crown Prosecution Service have begun to investigate crimes of honour, such work can only be strengthened by consistent links with community organisations which have highlighted these crimes and brought public attention to bear. Recent cases<sup>46</sup> have brought killings in the name of honour into public consciousness. In the UK, the most visible 'honour' crimes have occurred within Islamic Asian or Middle Eastern immigrant communities, reinforcing stereotypical notions that Islam condones them, a view which is refuted by many Muslim community leaders and members, in the UK and elsewhere. Crimes in the name of honour are rooted in cultural traditions, not religious beliefs; the conflation of the concepts of culture and religion contributes to the misunderstanding of such crimes, particularly in the context of Islamophobia and the 'war on terror'. The recent agenda on 'preventing extremism' dangerously elides terrorists, Islam and certain forms of violence against women, especially forced marriage and crimes in the name of honour.

The British policy commitment to multi-culturalism has fostered a reluctance to intervene in the private or cultural life of minority groups in the UK, resulting in a neglect of crimes in the name of honour. Only recent high profile cases and campaigning by NGOs have made it a policy

concern within, for example, the Metropolitan Police. Measures with which to address these crimes are yet to be fully developed and the success of cultural defences (in the name of honour) in court have not been systematically investigated. Recourse to dichotomous understandings of culture as the marker of absolute difference reinforces a separatist and uneven application of protection and prosecution. A recent judicial pronouncement gives grave cause for concern: Judge Dennison in *R v Yunis*, 'This is on any view a tragic story of irreconcilable cultural differences between traditional Kurdish values and the values of Western Society'.

NGOs argue that crimes in the name of honour are not limited to killings and need to be understood as encompassing domestic violence, forced marriage and other deprivations of liberty.

### Laws and policies

To the extent that legislation treats 'honour' killings as homicides, the UK government response to this form of gender-based violence is well placed. Nevertheless, abuse in the name of honour that does not result in homicide is rarely recognised as having an 'honour' dimension and is seldom detected or addressed through law enforcement.

When investigating a homicide believed to be an 'honour' crime, the police and prosecution services must be aware that the family is likely to have colluded in the killing. In such cases, a family member or associate may not give support to, or co-operate with, an investigation of cause of death. The need for specific guidelines for the Criminal Justice System should be explored and recent prosecution service attention to this area of work is welcome.

Established principles of social work practice tend to privilege family reunion, especially among ethnic minority communities, which are deemed to prioritise the family above the individual. However, failure to understand that crimes in the name of honour may be the follow through of decisions made by a collective, such as a kin group, means that returning a young woman to her family on the promise of fair treatment may prove to be a death sentence rather than good practice. There needs to be a review of the principle of family reunification among minority groups where internal conflict is known to exist and the provision of safe

<sup>46</sup> For example, Rukhshana Naz in 1999, Nuziat Khan, 2001, Heshu Yunis in 2002, Rexhap Hasini, 2003, Anita Gindha, 2004, Banaz Mahmud, 2006.

houses for those for whom reconciliation is dangerous.

The 2007 court case involving the killing of Banaz Mahmood is a tragic example of the failure to understand and believe: she contacted the police four times saying she was scared that her family would kill her but the police dismissed her as melodramatic.<sup>47</sup>

A fundamental step in the prevention of crimes in the name of honour must be to identify and document such crimes and offences. Recent cases have prompted the police and prosecution services to review their practices. This is welcome but must be monitored and undertaken with advice from women who understand violence against women and the dynamics of honour codes.

## Questions

for the committee to consider...

- 1** What plans does the government have to research crimes in the name of honour other than forced marriage?
- 2** How does the government intend to ensure that guidance and training on crimes in the name of honour, other than forced marriage, are in place for state agencies?
- 3** When will the government amend immigration legislation in order to allow women fleeing crimes in the name of honour to be considered as fleeing gender-based persecution and accommodated under asylum legislation?
- 4** Will the government recommend that work on honour crimes, forced marriage and domestic violence is 'joined up' – within government and relevant institutions such as the police, social services and health?
- 5** In what ways is the government working proactively to ensure the provision of services and shelters for young women at risk of crimes in the name of honour?
- 6** What plans does the government have to safeguard the specialist violence against women sector groups that provide support to minority women?

<sup>47</sup> K McVeigh (2007) Special units to crack down on honour killing, Police and prosecutors target 'hotspots', *The Guardian*, 16 June, <http://www.guardian.co.uk/crime/article/0,,2104428,00.html>.

## 5. Forced & Early Marriage

A forced marriage, as opposed to an arranged marriage, is one conducted without the valid consent of both parties and in which duress is a factor. Duress can range from emotional pressure exerted by family members to threats, abduction, imprisonment, physical violence and sometimes murder.<sup>48</sup> A marriage undertaken against the will of one or both spouses is likely to indicate a marriage in which that person's will and/or consent continue(s) to be irrelevant or over-ridden. Forced marriage may be a precursor to domestic violence, forced domestic labour, sexual slavery or other servile patterns of behaviour. The victim's preferences for education, employment or mobility may be, and often are, compromised in such marriages; a range of human rights are potentially abused in this context.

Young women are the main victims of forced marriage, although forced marriage can take place at different ages and some men also find themselves forced into marriage. The impact of such marriages can be severe, even fatal. Research shows that young Asian runaways tend to be clustered around the age of 16, at which they are likely to be compelled to marry<sup>49</sup> and there are disproportionate levels of actual and attempted suicides amongst teenage Asian girls.

Known patterns of forced marriage include removing young people from the UK and presenting them with a spouse/marriage abroad, bringing a would-be spouse into the UK to marry a settled person against their will or forcing a wedding with both parties from the UK. Forced marriage is practised in a variety of minority communities in the UK. It is widely known to take place among South Asian communities. Yet it is also practiced among Irish travellers, orthodox and fundamental religious communities (including Mormon, Jewish, Jehovah's Witness and Greek Orthodox), Armenian, Turkish, some mainland Chinese and Eastern European communities (linked to trafficking and prostitution), those from a variety of African (including the Horn of Africa which forms a number of refugee communities) and West African countries.

Reliable statistics on the prevalence of forced marriage do not exist. The Foreign and

Commonwealth Office (FCO) has worked with about 200 cases a year since 2000. In the voluntary sector Southall Black Sisters deal with a similar number each year.<sup>50</sup> Reunite estimates that 1,000 British Asian girls a year are forced into marriage against their will.<sup>51</sup> Forced marriage can occur when at least one spouse is under the age at which consent can be given or marriage is permitted in the UK. The minimum legal age for marriage in the UK is currently 16, which is below the 18 year threshold suggested by the CEDAW Committee.<sup>52</sup>

### Government action

A noteworthy initiative has been the Parliamentary Working Group, which reported in 2000.<sup>53</sup> At policy and practice levels government work was initially led by the Foreign and Commonwealth Office (Community Liaison Unit), producing practice guidelines with the police and the social services, as well as a video for use with young people in schools. Government has reached bilateral agreements with several countries concerning diplomatic interventions in cases of forced marriages involving British nationals while abroad.

A joint Home Office/Foreign Office Forced Marriage Unit has improved government intervention in cases that have an overseas element and has introduced guidelines for professional agencies in the UK, including the police, social services, health and education. Yet much work on forced marriage is treated as an issue that is distinct from other forms of violence against women; there is inadequate integration and strategic direction.

New legislation – the Forced Marriage (Civil Protection) Act 2007 – provides the opportunity to give these guidelines a statutory basis and enables injunctions to be made to pre-empt and prevent forced marriages. The current approach adapts the civil protection model the UK has long applied

<sup>48</sup> Y Samas and J Eade (2003) *Community Perceptions of Forced Marriage*, Report to FCO Community Liaison Unit, 53-4.

<sup>49</sup> U Riaz (2004) *Hidden Crisis*, London, Children's Society.

<sup>50</sup> Y Samas and J Eade (2003) *Community Perceptions of Forced Marriage*, Report to FCO Community Liaison Unit.

<sup>51</sup> BBC News Online (1999) Judge prevents forced marriage, 28 May.

<sup>52</sup> Committee CEDAW General Recommendation No. 21 UN GAOR, 1994, Doc. No. A/47/38 states that: 'the Committee considers that the minimum age for marriage should be 18 years for both man and woman.'

<sup>53</sup> P Uddin and N Ahmed (2000) *A Choice by Right: The Report of the Working Group on Forced Marriages*, London, Home Office.

to domestic violence. While welcome, these provisions remain adequately to be implemented and their impact yet to be seen. The government needs to show commitment to implementation of this law by ensuring adequate resources are made available for this work.

When cases have come to court, marriages characterised by force have been annulled: for example a case in Scotland reported in *The Guardian* 24 April 2002. However, few, if any, prosecutions have been brought against persons who have been involved in child or forced marriages taking place.

The government considers the age of overseas partners in international marriages to be pertinent to the success of force in marriages. Hence raising the age of the overseas partner is being considered as a means to limit forced marriages. Danish and Dutch policies apply a higher minimum age of marriage in such cases and the UK is considering doing the same by applying a minimum age of 21 – higher for migrants than for natives. A forthcoming research report<sup>54</sup> finds that a minimum age of 21 at marriage will not make inroads on this practice, since 21 is not a significant threshold in determining marriage practices.

Those who seek to flee child or forced marriages are likely to turn for support to the general services available to women fleeing violence, including refuges; this sector remains under-resourced. In order to provide effective protection to women vulnerable to or fleeing forced marriage the sector as a whole needs better and more secure funding, there must be research on the practice of forced marriage and training of professionals (especially law enforcement and social services). There also needs to be full and widespread exploration of the potential need for high-security shelter provision for particular forms of violence in situations of danger.

## Questions

### for the committee to consider...

- 1** How and when will the government conduct research and implement policies that deal with the specific costs of child and forced marriage on young people, including absence from education?
- 2** When does the government plan to conduct in-depth research into the prevalence and conviction rates of crimes related to child and forced marriage such as abduction, harassment, assault and murder?
- 3** When will the government issue regulatory frameworks and deliver training for all relevant agencies, including the police, social services, housing departments and criminal justice system, to inform proactive efforts against child and forced marriage?
- 4** How and when will the government ensure that government employees and the public recognise the distinction between arranged and forced marriages?
- 5** When will the government amend immigration legislation in order to a) provide actual protection to those facing or fleeing child or forced marriage who are immigrants and b) allow women and girls fleeing child or forced marriages to be considered as fleeing gender-based persecution and accommodated under asylum legislation?
- 6** Will the government commit to equal treatment in the legal age of marriage for migrants and nationals?
- 7** When will the government make a clear policy commitment not to resort to mediation between family members as a response to actual or potential child or forced marriage?
- 8** What mechanisms and resources is the government planning to put in place, and when, to offer support and ensure safety for young women at risk of forced or child marriage?

<sup>54</sup> M Hester, K Chantler, G Gangoli, B Ahmed, J Devgon, S Sharma, and A Singleton (forthcoming) *Forced Marriage: The Risk Factors and the Effect of Raising the Minimum Age for a Sponsor, and of Leave to Enter the UK as a Spouse or Fiancé(e)*, London, Home Office.

## 6. Female Genital Mutilation

Female genital mutilation (FGM) is known to be practised by communities living in the UK, both within the UK and by taking girls out of the country for the procedure. Many girls are taken out of school for the practice and suffer physical and psychological health consequences as a result. Adult women who have undergone the procedure tend to come to the attention of health services at the time of, or in the run-up to, childbirth and sometimes due to long-term complications such as infertility; some are seen before they get married. The DoH recently funded a study<sup>55</sup> to establish the prevalence of FGM in the UK. This study sought to estimate the number of women and girls in England and Wales living with FGM and those under 15 years of age who are at risk. Completed in early 2007 about 30,000 girls in the UK are at deemed to be risk of this practice. Of the 303,454 migrants to the UK from countries in which FGM is practised, the study estimated that in 2001 66,000 women had undergone FGM. While this provides some baseline data the absence of a community based survey means that the impact of Government and civil society efforts to eradicate FGM in the UK are yet to be measured. Given that there is a tried and tested module to document trends over time used in many developing countries, this is long overdue.

### Government action

Preventive measures can be taken under the Children Act 1989 provisions to promote the welfare of children. Steps available include investigation, restrictions on taking a child abroad or arrangements for a child to be taken into state care. Government guidelines (*Working Together*) outline actions that can be taken for the protection of children. However, the assessment framework for Children in Need does not mention FGM. This means that there are no criteria to trigger a child protection response and no automatic inclusion of FGM in local child protection guidelines. Several Local Authorities have FGM Child Protection or Safeguarding Children Procedures in place, including London, Bristol, Cardiff, Sheffield,

Liverpool and Birmingham, but more needs to be done with regard to training and raising awareness.

In October 2003 the government passed the Female Genital Mutilation Act which came into force in March 2004. The Act retains the crime of FGM in the UK (originally introduced in the 1985 Prohibition of Female Circumcision Act) and extends the provisions to any offence of FGM which takes place outside the UK on a national or resident of the UK. The maximum penalty is fourteen years in prison.

UK policy and practice in countries where FGM is prevalent is key to prevention in the UK as many of the women and girls at risk come from these countries and return there to have FGM performed. The UK Department for International Development seeks to tackle issues of violence against women through an interest in empowerment. However, most health or country-specific policies fail to mention FGM, including for the Horn of Africa region, where prevalence of FGM is above 75% and as high as 98% in Somalia and Djibouti. There is wide and increasing recognition that pledging, as developed by Tostan in Senegal, has had a major influence. The UK should be supporting these and other evidence-based approaches to prevention.

### Services for women and children

For many women living in the UK who have already undergone FGM, health services are often the first point of contact with potential support. The government's National Strategy for Sexual Health and HIV includes plans for the DoH to work with voluntary organisations 'to meet the needs of women and girls affected by female genital mutilation'. There are several NGOs and grassroots organisations who now work to tackle the practice, including the Foundation for Women's Health Research and Development (FORWARD), Agency for Culture and Change Management (ACCM), London Black Women's Health and Welfare Association and Rainbo.

The government has argued that the legal prohibition of FGM has a deterrent effect on families and consequently helps to prevent the practice. There is, however, little evidence that the legislation is having this effect or that it has been implemented. There has been no prosecution of a parent or family under either the 1985 Female Circumcision Act or the new Female Genital

<sup>55</sup> E Dorkenoo, L Morison, A Macfarlane (2007) *A Statistical Study to Estimate the Prevalence of Female Genital Mutilation in England and Wales*, Foundation for Women's Health, Research and Development (FORWARD) in collaboration with the London School of Hygiene and Tropical Medicine and the Department of Midwifery, City University, Department of Health, England.

Mutilation Act 2003, despite evidence that FGM does indeed occur in the UK. Two doctors have been struck off the medical register but not prosecuted. The government has failed to put adequate resources into raising awareness about the legal prohibition of FGM or the reasons why families and communities should abandon the practice, leaving this work to small, under-funded NGOs.

The government must do more to provide services and support to women who have undergone FGM. Community level workers report that women and girls may require counselling, appropriate information about health consequences (including maternal health) and information about possibilities for reversal. Women need access to support and advice for choosing not to have FGM performed on their children, as well as information about safe accommodation if they are threatened by family members as a result of this choice.

Specialist healthcare providers, including staff working at specific FGM clinics, report that many women who have suffered FGM lack even basic knowledge about the primary healthcare services available to them.<sup>56</sup> There is a misconception that FGM services in the UK are available solely to expectant mothers, resulting in many women waiting until they are pregnant to seek help. It is essential that healthcare professionals are aware of the issues around FGM and can provide women and girls with the appropriate care and support. The DoH has produced a new DVD on FGM for midwives and other health professionals but this is not being distributed properly as many health professionals are not aware of it or have not received a copy.

Culturally sensitive healthcare services are centralised in a small number of urban areas. Given that FGM is practised in some refugee communities, this is a particular problem in relation to the government's policy of dispersing asylum seekers to areas outside London and other centres where FGM services are not available.

## Questions

### for the committee to consider...

- 1** How does the government plan to ensure knowledge of the law prohibiting FGM is increased in communities that practice FGM and to link this work into violence against women work more broadly?
- 2** What work has been done to support or develop awareness-raising campaigns on the eradication of FGM, including work to influence men's expectations of marrying a woman who has/has not undergone FGM?
- 3** How does the government intend to inform incoming migrants and refugees from countries with high levels of FGM about the prohibition in the UK?
- 4** How many women have applied for asylum on the grounds of risk of FGM and how many such applications have been successful?
- 5** What action will the government take to ensure that all women and girls who have undergone FGM receive adequate and timely social, psychological, and medical support?
- 6** When will the government commission a national survey on the prevalence of FGM that draws on the good practice model developed by the DoH?
- 7** When will the government introduce consistent and adequately resourced, mandatory training on FGM for all relevant professionals?

<sup>56</sup> All-Party Parliamentary Group on Population, Development and Reproductive Health (2000) *UK Parliamentary Hearings on FGM: Hearings Report November 2000*, London.

## 7. Refugee & Asylum-Seeking Women

In 2006, 7,105 women applied for asylum as principal applicants (30% of the total) and 2,550 applied as dependents, a drop of almost 6,000 from 2001.<sup>57</sup>

The great majority of asylum seekers, including women, are not recognised as Convention refugees in the UK; indeed, the proportion of women granted asylum has fallen in this period – from 13% in 2001 to 10% in 2005. Appeals against initial refusal are sometimes successful<sup>58</sup>, suggesting errors in assessing claims. Poor-quality official decision-making is a major obstacle to women seeking protection in the UK from violence at the hands of state agents or condoned by the state in their country of origin.

Physical attacks on asylum seekers occur in the UK, contributing to a prohibitive climate of fear. Amongst refugee women, 83% reported living under self-imposed curfew, locking themselves indoors by 7pm. One in three report having been verbally or physically abused, half had experienced neglect, disrespect and racism from the maternity services<sup>59</sup>.

### Recent government action

The Immigration and Asylum Act 1999 and the Nationality, Immigration and Asylum Act 2002 together introduced significant legal changes, including:

- increased powers to arrest, search and fingerprint;
- increased use of detention and ending support to asylum seekers who did not claim asylum on arrival in the UK;
- introducing a list of safe countries from which asylum claims will be presumed to be unfounded and whose nationals will no longer have right of appeal in the UK despite evidence that women may not be safe in those countries;<sup>60</sup> and

- the establishment of immigration removal centres for asylum seekers and their families in isolated locations.

A parallel welfare system has been established through these changes.

Other government initiatives were oddly omitted from the current government report under CEDAW. These are Gender Issues in the Asylum Claim, the Asylum Policy Instruction incorporated by the Home Office in 2004 and the 2004<sup>61</sup> initiative to provide financial support or accommodation to specific asylum seekers suffering domestic violence. The gender Asylum Policy Instruction was finally included in the report, albeit only in the annex, but only after an NGO [Asylum Aid] pointed out the omission, raising questions about the ownership and commitment to implement the positive changes these policies bring. Meanwhile, there have been gender guidelines in place in relation to appeals since 2000<sup>62</sup> but in September 2006 the President of the Asylum and Immigration Tribunal (AIT) stated that these had never been the AIT's policy and they were removed from their website<sup>63</sup>.

The London Representative of UNHCR, Bemma Donkoh, has stated that UNHCR has "consistently advocated that the refugee definition, if properly interpreted, can encompass women who have been persecuted for gender-related reasons"<sup>64</sup>. The gender guidelines provided a mechanism by which to interpret the Refugee Convention in a gender-sensitive way.

### Current government action

The lessons learned from working with victims of sexual violence and domestic violence within the criminal justice system have not been transferred to dealing with women asylum seekers who have experienced similar crimes abroad. For example, the police understand the need to provide female officers to such victims and the police and Crown Prosecution Service recognise that a delay in reporting an allegation of rape does not reduce its credibility. Yet women asylum applicants are not provided with female caseworkers and late

<sup>57</sup> K Bennet, T Heath and R Jeffries (2007) *Asylum Statistics United Kingdom 2006*. London, Home Office.

<sup>58</sup> In 2006 22% of appeals were allowed (figures for men and women combined).

<sup>59</sup> H Dumper (2002) *Is it Safe Here? Refugee Women's Experiences in the UK*, London, Refugee Action.

<sup>60</sup> S Ceneda (2004) *Safe for Whom? Women's Human Rights Abuses and Protection in 'Safe List' Countries: Albania, Jamaica and Ukraine*, London, Asylum Aid, 87-8.

<sup>61</sup> Policy Bulletin 70 on *Domestic Violence*, January 2004.

<sup>62</sup> N Berkowitz and C Jarvis (2000) *Asylum Gender Guidelines*, Immigration Appellate Authority.

<sup>63</sup> *Women's Asylum News*, 66, January/February 2007, 8-9.

<sup>64</sup> BBC News Africa, (2006) *Sierra Leone anger at FGM asylum in UK*, 19 October.

disclosure goes against an applicant's credibility. In a similar parallel the UK government has legislated against FGM and forced marriage, but women fleeing such persecution abroad find it difficult to have their asylum claims accepted<sup>65</sup>.

There is currently extremely limited understanding of gender-based violence in the UK asylum system, including how this falls within the remit of the Convention. Gaps include: understanding women's specific forms of political activism; discriminatory religious or cultural norms that target women specifically and in some cases constitute forms of violence. The adoption of the gender guidelines should, if consistently implemented and if staff are given adequate training, make a contribution to addressing this historical shortcoming. However, research published in 2006<sup>66</sup> indicated very little evidence of the guidelines being applied. The lack of provision of female interviewers and interpreters remains a significant concern. The Immigration Service has refused to comply with recommendations by the UNHCR (produced as part of its Quality Initiative Project) relating to gender. NGOs led a forceful campaign to overturn the Minister's refusal to allow asylum applicants a preference on the sex of their case owner and the Border and Immigration Agency has now agreed. The fact that it has taken such efforts to bring in a measure which is common practice in the Criminal Justice System raises questions as to the Immigration Service's commitment to address gender issues.

Women's claims for asylum are rejected in large numbers. The internal flight alternative, whereby asylum seekers are expected to relocate to a new part of their country of origin, has a disproportionate effect on women. This is partly because they are more likely than men to have suffered harm in the private sphere and so are seen as eligible for the internal flight alternative (in general, those persecuted by the state would not be seen as safe elsewhere in their own country). It is also because this does not recognise the social costs of living as single women (inevitable if they leave abusive families) in their given cultural contexts.

The fast track asylum determination procedure was set up to process asylum claims deemed to be

straightforward and where a decision could be made quickly. A detention centre for women and families opened at Yarl's Wood in May 2005 and for the first time women were placed in such a procedure. This detained fast track system includes women's cases that involve rape and domestic violence and is unlikely to attend adequately to the complexity of the issues or allow the applicants adequate time to develop trust and confidence to speak to an official about their experiences. The Home Office's own research<sup>67</sup> recognises this, yet women continue to be placed in this system and to experience difficulty in being taken out of the system despite having experienced gender persecution.

In assessing asylum claims, violence in the family is still routinely perceived to be a private violation and not the responsibility of the state; consequently women's experiences of such abuse are not considered to amount to persecution despite the lack of state protection. A House of Lords judgement in 1999 (Shah and Islam) recognised gender-related persecution arising out of domestic violence for the first time and that the persecutors were non-government agents in a situation where there was no state protection. However, each case still has to be argued on its merits and the facts of the case, leaving state policy unpredictable and inconsistent.

Women face many obstacles in the current asylum procedures. At the stage of the initial claim there may be failure to interview women separately from male relatives and a lack of understanding of why women may delay disclosing details of their experiences. At the interview stage impediments include poor practical provisions, such as lack of childcare arrangements, impeding women's ability to make a claim or attend interviews and legal appointments. At the decision-making stage<sup>68</sup> there may be downgrading of medical evidence or temporary or exceptional grounds for remaining in UK given to women who should have full refugee status. This is accompanied by a lack of knowledge of women's situation and status in their countries of origin, exacerbated by the generally poor quality of country information provided by the

<sup>65</sup> For example, the case of a young woman at risk of FGM in Sierra Leone had to take her case through to the House of Lords). REF: SSHD v K and Fornah [2006] UKHL 46.

<sup>66</sup> S Ceneda and C Palmer (2006) *Lip Service or Implementation? Home Office Gender Guidance and Women Asylum Seekers*, London, Asylum Aid.

<sup>67</sup> Home Office (2006) *Yarl's Wood Detained Fast-Track Compliance with the Gender API*, A report by the NAM Quality Team, London, Home Office.

<sup>68</sup> A UK-wide campaign to persuade the BIA to provide childcare during asylum interviews led by the Refugee Women Stakeholders Group has resulted in one region (Cardiff) doing this. No other region has followed suit as yet, despite this example of good practice.

Home Office to its decision-makers on women's issues.<sup>69</sup>

Once their case has been turned down women continue to spend long periods in detention. The Home Office should use non-detained processes to decide asylum claims and end the use of detained fast track.

### **Housing, welfare, legal and social services**

The National Asylum Support Service (NASS) (now incorporated into BIA's asylum system) oversees the provision of benefits and housing. Asylum seekers receive only 70% of full benefits, with bleak consequences for some women, making them vulnerable to labour and sexual exploitation. The quality of housing provided has proved unsatisfactory. When accommodated in mixed sex centres with large populations of single men, women report sexual harassment and a climate of fear.

Yarl's Wood, the sole immigration removal centre for women and families only, has a much smaller ratio of female staff in its residential area compared to nearby female prisons. Social work and medical staff are generally male. There is no recognition that residential and medical staff should be predominantly female despite prisons having a target of female staffing levels of 60-70%. Again, the good practice of the Criminal Justice System has not been transferred to the immigration services.

Changes to the legal aid system mean that time limitations are applied to lawyers handling an initial asylum claim. Given that women traumatised by experiences of violence may take longer than others to be ready to tell and subsequently to recount their experiences, this constraint may have gendered consequences for women asylum seekers, which breach the Gender Equality Duty.

In the UK, failed asylum seekers are charged for health treatment from the date of rejection of their claim. Evidence suggests that women are being denied access to maternity care<sup>70</sup> – this is clearly a matter that needs urgently to be addressed. Additionally, the government is considering refusing asylum seekers access to NHS primary health care. Such charges could prevent vulnerable people

including pregnant women and children, from accessing vital treatment.

Poor financial support and social support networks contribute to the journey of some women asylum seekers into destitution. Research shows that women are particularly vulnerable to destitution following family separation, which may be linked to domestic violence and/or sexual exploitation<sup>71</sup>. During their research on destitution, Amnesty International was told by people working with rejected asylum seekers that they suspected that some of the women had turned to prostitution in order to survive and that young girls were possibly given floor space in exchange for sexual favours<sup>72</sup>. Those women who are forced into sleeping rough 'are obviously more vulnerable, often attracting unwanted attention, harassment and sexual abuse.'<sup>73</sup>

## **Questions**

### for the committee to consider...

- 1** When and how will the government systematically inform women asylum seekers of their right to make independent claims for refugee status?
- 2** How and when will the government ensure that the gender guidelines are comprehensively integrated into all aspects of the asylum determination process?
- 3** When will the government commit adequate resources to the local women's organisations that are providing support on gender-based violence to asylum seeking and refugee women who have been dispersed?
- 4** When will the government appoint a member of the Senior Management Team at the Border and Immigration Agency to take responsibility and be accountable for gender issues in relation to asylum claims, in a similar way to the Children's Champion?
- 5** When will the government introduce childcare throughout the procedure, in order to facilitate quality interviews for women asylum seekers?
- 6** In what ways and when will the safety and well-being of women asylum seekers be guaranteed while they are under the care of the government, including in immigration removal centres and hostels?

<sup>71</sup> Refugee Survival Trust (2005) *What's Going on? A Study into Destitution and Poverty Faced by Asylum Seekers and Refugees in Scotland*, Edinburgh, Refugee Survival Trust, 37-8.

<sup>72</sup> Amnesty International (2006) *Down and Out in London: The Road to Destitution for Rejected Asylum Seekers*, London, Amnesty International.

<sup>73</sup> Refugee Action (2006) *The Destitution Trap*, London, Refugee Action, 83.

<sup>69</sup> S Ceneda and C Palmer (2006) *Lip Service or Implementation? Home Office Gender Guidance and Women Asylum Seekers*, London, Asylum Aid.

<sup>70</sup> N Kelley and J Stevenson (2006) *First Do No Harm: Denying Healthcare to People whose Asylum Claims Have Failed*, London, Refugee Council.

**7** When will the government end the two-tier system of benefits, currently providing asylum seekers only 70% of standard payments?

**8** How and when will the asylum claim procedures be amended in order to ensure that women enjoy complete confidentiality throughout the process?

**9** When will the government implement the recommendation of the parliamentary Joint

Committee on Human Rights that detention at the beginning of the asylum process should be limited to seven days?

**10** How does the government intend to ensure that female asylum seekers are better enabled to report the gender-based violence to which they may have been subjected?

## 8. Stalking & Sexual Harassment

Stalking is experienced by many women and can be an indicator of other dangers they face. From British Crime Survey data it is estimated 1.2 million women were subjected to stalking during 2003 and that three-quarters of those subject to persistent and unwanted attention were women.<sup>74</sup> Younger women (under 29) were most likely to be the subject of stalking, which can be extremely serious, with research showing that more than 90% of women killed by their ex-partners had been stalked prior to being murdered.

### Current actions

The Protection from Harassment Act (PfHA) was passed in 1997 and has primarily been used with respect to post-separation domestic violence. However, there are problems with the implementation of this legislation. This policy area provides another example of lack of integration: harassment is a key indicator of risk in MARACs but judges' focus on potential lethality is informed by acts and incidents of abuse rather than patterns of coercive control.

The judiciary is not effectively utilising the strength of the PfHA. Home Office research showed that 43% of offenders were given a conditional discharge and in only half of the cases resulting in a conviction was a restraining order issued. The attrition rate is high relative to other proceedings. This suggests much greater need for support in the pre-trial period, particularly given the stresses involved in detailing and gathering the evidence for the case. The Crown Prosecution Service terminated 39% of cases compared with the national average of 14% (for all crimes). This suggests major problems between the police and CPS in agreeing the evidence for cases to be taken forward for criminal proceedings.<sup>75</sup> Police require training to collect the necessary evidence under different sections of the PfHA and many police are not confident in this data collection or in understanding which section of the PfHA to use.

<sup>74</sup> S Walby and J Allen (2004) *Domestic Violence, Sexual Assault and Stalking: Findings from the British Crime Survey*, Home Office Research Study 276, London, Home Office.

<sup>75</sup> J Harris (2000) An evaluation of the use and effectiveness of the Protection From Harassment Act: Summary of Home Office Research Study 203, in T Budd and J Mattinson, with A Myhill, *The Extent and Nature of Stalking: Findings from the 1998 British Crime Survey*, London, Home Office.

The Home Office research recommended systematic training for police but this has yet to be implemented.

Data collection processes do not specify whether former partners are involved and hence crime data cannot distinguish neighbour harassment from post-separation violence and other forms of stalking. A study commissioned by the Home Office of a sample of files indicated that the most common use of the legislation was because the complainant had ended an intimate relationship with the suspect. It would be helpful in monitoring and responding to stalking and post-separation violence if these categories were specified in standard record keeping systems. In other countries, particularly some states in the US, there has been a marked improvement in the effective utilisation of stalking legislation when specialist units were established to develop data gathering techniques and victim support. Such units also provide consultation and specialist input to police forces throughout the country and provide a link with domestic violence work.

Little has happened with respect to sexual harassment at work for a number of years other than initiatives by several trade unions and a small campaign by the Equal Opportunities Commission. Research data is still limited to small-scale surveys but a recent study by the National Union of Teachers<sup>76</sup> found that over half of female teachers had been harassed at work and there was an increase in incidents involving pupils. Recent civil cases suggest that sexual harassment continues to be used as a mechanism to undermine women and deny them equal access to all spheres of employment. It occurs throughout occupations, from the police and the fire service through to legal practice and financial services.

The EU issued a new directive on sexual harassment in 1999 but little effort has been made in the UK to implement this. In particular, there is still no specific law and cases have to be taken using general sex discrimination statutes. At both trade union and employer levels a gender-neutral perspective on bullying and violence at work has eclipsed the

<sup>76</sup> S Neill (2006) *A Serious Business: An NUT Survey of Teachers' Experiences of Harassment and Bullying in Schools and Colleges*, Warwick, Institute of Education, University of Warwick.

previous gendered focus on sexual harassment. In most locations, the assertiveness and self-defence classes provided for women in the 1980s by local government, trade unions and employers have been replaced by generic personal safety courses. Several of the major providers of such training go to great lengths to stress their gender-neutral stance, thus minimising and making invisible sexual harassment in the workplace. Much of this fails to provide information about best practice and evidence-based interventions, for example, that resistance is possible and can be effective.<sup>77</sup>

### Impacts and initiatives

While support services for those suffering post-separation violence are very limited, services for those stalked by strangers are virtually non-existent and are desperately needed. Women's safety in the public realm requires improving the quality of life for all people by reducing crime and fear and providing the support that vulnerable groups need to feel safe and secure in their living environments. The new Gender Equality Duty places obligations on public bodies to promote gender equality, including addressing harassment.

Women are far more worried about violent crime than are men. Recent research shows that women are more than twice as likely as men to fear violent crime, while a quarter of women said they were very worried about being raped or physically attacked and one-fifth (19%) were very worried about being mugged. In terms of concerns about personal safety, women were just over four times more likely to feel unsafe when walking alone at night than men, and older people were considerably more anxious than younger people. Women aged 60 and over were by far the most likely to say they felt or would feel very unsafe in these circumstances (33%).<sup>78</sup>

There are very few current examples in Britain of community safety initiatives that specifically focus on gender inequality. Where they do exist, they tend to arise from the commitment of individual organisations or local authorities. The gendered patterns of fear of crime and women's lack of a sense of personal safety require a gendered response and uptake of the Respect agenda. Nothing has been done to examine the ways in which young men use and occupy public space in ways that (intentionally or otherwise) exclude women.

<sup>77</sup> C Seith and L Kelly (2003) *Achievements Against the Grain: Self-Defence Training For Women and Girls in Europe*, London, Child and Woman Abuse Studies Unit.

<sup>78</sup> A Walker, A Kershaw and S Nicholas (2006) *Crime in England and Wales 2005-6*, London, Home Office Research Development and Statistics Directorate.

Fear of sexual harassment and violence restricts women's choice of education, political participation, entertainment and leisure activities and access to public spaces<sup>79</sup> and consequently limits the extent to which women can play a part in, and benefit from, community and economic engagement in all spheres of life.

Where the sex industry has begun to flourish, as in, for example, the London Borough of Camden, the Director of Environmental Health noted that the locality had 'become a no-go area' for women. Sexual harassment of women and an increase in rapes and sexual assaults have been noted in the local area. Further thought must be given by the government to the implications of the sex industry for the safety and freedom of movement for women, as well as their ability to live without fear.

Gender mainstreaming continues to be a central issue in the European Commission's community action programmes and in the mission of the UK government's Women and Equality Unit. Government departments have failed as yet to mainstream violence against women and women's personal safety into regeneration and community safety policy and practice.

In summary, little emphasis has been placed on women's safety in the public sphere, which had been a key issue addressed by local government women's equality units in the 1980s. One exception here is the Greater London Authority, whose transport policy pays specific attention to women's safety. The issue of women's access to the public sphere, especially at night, has been subsumed into a 'one size fits all' policy of CCTV use, within a gender-neutral crime prevention and public safety agenda.

## Questions

for the committee to consider...

- 1 How will the government address women's safety in the public sphere? Will the government implement policy supporting gender impact assessment in planning and policy as well as gender disaggregated statistics so that the needs of women and the barriers they face can be better understood and tackled?
- 2 Will the government ensure that sexual harassment is named and addressed in all work on bullying in schools and workplaces?
- 3 How has the government responded to the high number of terminations of cases by the Crown

<sup>79</sup> *West End Entertainment Impact Study* (2001) London, Westminster City Council.

Prosecution Service under the PfHA?

**4** When and how will the government change data collection processes in order to identify cases under the PfHA which involve ex-partners?

**5** When will the government provide support services for victims of harassment that include the needs of those who are not stalked by ex-partners?

**6** When will the government increase the training for both the judiciary and the police so that more effective use can be made of the PfHA?

**7** Does the UK government intend to implement the EU directive on sexual harassment, especially creating an appropriate legal framework? When will this be done?

**8** In what ways will the government work with employers to develop strategies that create safe working environments for female employees and support the provision of women-only self-defence classes?

**9** When and how will the government take seriously the new technologically enabled means of stalking – by email and mobile phone?