



Rights of Women's evidence to Joint Committee on Human Rights on violence against women and girls

Rights of Women

1. Rights of Women works to secure justice, equality and respect for all women. Our mission is to advise, educate and empower women by:
 - Providing women with free, confidential legal advice by specialist women solicitors and barristers.
 - Enabling women to understand and benefit from their legal rights through accessible and timely publications and training.
 - Campaigning to ensure that women's voices are heard and law and policy meets all women's needs.

Rights of Women specialises in supporting women who are experiencing or are at risk of experiencing, gender-based violence, including domestic and sexual violence. We support other disadvantaged and vulnerable women including Black, Minority Ethnic, Refugee and asylum-seeking women (BMER women), women involved in the criminal justice system (as victims and/or offenders) and socially excluded women. By offering a range of services including specialist telephone legal advice lines, legal information and training for professionals we aim to increase women's understanding of their legal rights and improve their access to justice enabling them to live free from violence and make informed, safe, choices about their own and their families' lives.

2. Rights of Women operates three specialist legal advice lines on family, criminal and immigration law. The advice lines are staffed by women solicitors and barristers who have experience in the relevant areas of law; advisors may be either staff or volunteers. Advice is free and confidential and available regardless of the financial resources or immigration status of the caller.

Law, culture and violence against women and girls

3. Violence against women and girls (VAWG)¹ has not traditionally been considered a human rights law 'problem'. The consequences of this are complex and multi-faceted; however, one outcome has been the continuing perception of violence against women as a 'natural' or 'cultural', rather than a legal or human rights concern.² The increasing prominence of feminist legal scholarship has sought to challenge these and other assumptions about the purported neutrality of particular legal regimes, such as family or human rights law. Rights of Women therefore welcomes the Committee's inquiry and call for evidence.
4. Rights of Women notes that the Committee has expressed an interest in the ways in which culture, custom, religion or tradition may be used as a justification for VAWG and other serious human rights violations. Rights of Women observes that in domestic political and legal discourse cultural practices that discriminate against women are frequently regarded as belonging to 'others', these 'others' being situated in developing countries or immigrant communities. This evidence seeks to draw on the work of Yakin Ertürk (the former UN Special Rapporteur on violence against women) who argues that as part of this 'othering' process certain forms of violence against women are isolated from wider political movements for women's empowerment and equality and from the human rights movement as a whole.³ Whilst parliamentarians and policy makers may feel comfortable in debating measures targeted at securing equal pay or women's political representation, forms of violence against women such as prostitution or sexual violence, are viewed as the abnormal actions of individual perpetrators rather than culturally accepted forms of violence against women that are also human rights abuses requiring a response. It is submitted that this perception is even more acute when the woman experiencing violence is a migrant or from a black, minority ethnic, refugee and asylum-seeking (BMER) community. Such groups are generally (and wrongly) perceived as deviant and violent, particularly towards women, in comparison with 'resident' families. Consequently, Government responses to particular forms of violence against women (such as forced marriage or trafficking) usually involve criminalisation and/or the implementation of ever more coercive

¹ The *UN Declaration on the Elimination of Violence against Women (1993)* defines violence against women in Article 1 as: "any act of gender-based violence that results in, or is likely to result in, physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life". Article 2 of the *Declaration* further states that violence against women encompasses, but is not limited to: "...Physical, sexual and psychological violence occurring within the general community, including rape, sexual abuse, sexual harassment and intimidation at work, in educational institutions and elsewhere, trafficking in women and forced prostitution..."

² *Are Women Human? And other international dialogues* Catharine Mackinnon, Harvard University Press (2006).

³ *Intersections between culture and violence against women* Report of the Special Rapporteur on violence against women, its causes and consequences, Yakin Ertürk A/HRC/4/34.

immigration controls.⁴ We specifically consider issues around forced marriage and FGM below.

5. Mindful of this trend, Rights of Women's evidence seeks to draw the Committee's attention to particular forms of violence against women that are prevalent in the UK and which we submit require the Government to respond to with due diligence and without discrimination to ensure that our domestic and international human rights obligations are met.⁵ We have focussed our evidence on the issues that are most significant to the women we advise and support.
6. In drafting our evidence we have had sight of submissions drafted by Women's Aid and Asylum Aid and would like to support the observations and recommendations made by those organisations.

VAWG and the family justice system

7. Rights of Women has significant concerns about the family justice system's response to VAWG. In particular:
 - a. we are concerned about the process of attending court as a victim of VAWG; and,
 - b. we submit that decision-making in cases involving domestic violence and children is flawed and that consequently, both women and children are being put at risk of experiencing further violence and abuse.
8. *Picking up the pieces: domestic violence and child contact*⁶ considered the family justice system's response (in London) to domestic violence by exploring the experiences of women who had or were experiencing violence and of their legal representatives. The research identified a number of failures by the courts to investigate allegations of domestic violence, a tendency of court and other professionals to minimise the harm caused by domestic violence and a trend of court approved contact with violent fathers that is unsafe for children and their mothers:
 - a. all women interviewed experienced ongoing violence and abuse post separation;
 - b. 52% of women interviewed had represented themselves in court proceedings at some stage;

⁴ See, for example, the UK Border Agency's *'Family Migration, A Consultation'* in which proposals are made to reduce the incidence of domestic violence and forced marriage through the introduction of more restrictive entry requirements, such as having to show a 'connection' with the UK www.ukba.homeoffice.gov.uk/sitecontent/documents/policyandlaw/consultations/family-migration/.

⁵ *Opuz v Turkey*. For further details about Rights of Women's positions on violence against women and human rights law see *Measuring Up? UK compliance with international obligations to protect women from violence* C Briddick, H Camplin, K Perks, E Scott and R Tweedale, Rights of Women (2010).

⁶ *Picking up the pieces: domestic violence and child contact* (November 2012), Rights of Women and the Child and Women's Abuse Studies Unit at London Metropolitan University www.rightsofwomen.org.uk.

- c. 45% of women experienced violence after the making of a contact order, most commonly threats and harassment;
 - d. 79% of legal professionals reported that regaining power and control was a primary motivation behind applications for child contact by perpetrators of violence;
 - e. only 10% of legal professionals said that judges fully complied with the judicial guidance for dealing with child contact cases where domestic violence is an issue; and
 - f. unsupervised contact was routinely ordered in cases involving domestic violence, including where the child(ren) refused contact or expressed terror and/or distress at the prospect of seeing their abusive parent.
- 9. Drawing on this research and evidence from our advice lines Rights of Women makes three sets of recommendations for changes to the family justice system which we urge the Committee to consider and recommend to Government:**
- a. **Special measures⁷ need to be made available in *all* family proceedings (not just those involving children) for vulnerable and intimidated witnesses.**
 - b. **A robust, statutory framework for the identification and assessment of violence (including VAWG) needs to be developed and implemented. This should include the provision of mandatory training for judges and other professionals.**
 - c. **The Government, through relevant agencies where appropriate, needs to ensure the monitoring and recording of family cases involving violence (including VAWG) to ensure that these cases are dealt with appropriately and to monitor the impact of other relevant changes, such as those to legal aid.**

VAWG and the criminal justice system

10. Rights of Women notes that this call for evidence has taken place during a period of sustained scrutiny of the criminal justice system and its response to sexual violence, a form of VAWG which we submit remains culturally accepted in the UK.
11. Rights of Women commends the work of the CPS in relation to VAWG, its VAWG strategy⁸ and the efforts of current and past DPPs to improve the CPS' response to those who have experienced different forms of VAWG. Rights of Women notes that initiatives such as the Victims Right of Review⁹ are particularly useful to women who

⁷ Special measures are legal protections afforded to certain witnesses in criminal proceedings, for further information see http://www.cps.gov.uk/legal/s_to_u/special_measures/.

⁸ <http://www.cps.gov.uk/Publications/equality/vaw/index.html>

⁹ http://www.cps.gov.uk/victims_witnesses/victims_right_to_review/

have experienced VAWG and that such measures improve decision making and victim confidence.

12. Rights of Women believes however, that the response of the police to VAWG remains inadequate. We would like to draw Committee members' attention to the recent judgment in *DSD and NBV*¹⁰ that the police have a duty under the Human Rights Act 1998 to conduct investigations into "particularly severe violent acts in a timely and efficient manner." Rights of Women submits that this case is indicative of a wider failure to respond to allegations of sexual violence appropriately and adopt the case-building approach advocated in the ACPO and CPS protocol on the investigation and prosecution of rape.¹¹
13. Rights of Women has welcomed the development of detailed guidance to facilitate the proper investigation of domestic and sexual violence¹² but is aware, through our legal advice lines, that problems are frequently caused by the failure of the police to follow that guidance. In *DSD and NBV* Mr Justice Green observed:

"The evidence that I was given by relevant police offices in the case about the guidance was that they had never received training in its contents, that it was simply one of a number of guides that were available on the internet and that they were largely ignored."

The impact of failures to follow relevant guidance on the investigation(s) was later relied on to find that the rights of the victims had been breached, although Mr Justice Green made it clear that this would not always be the case.¹³

14. Rights of Women believes that victim confidence in the investigative process and police assessments of victim credibility are intimately linked and that the adoption of robust investigative processes are required to ensure that cases are properly investigated. A related concern is the number of VAWG cases that are 'no crimed' by the police¹⁴ or which are dropped following the application of the evidential limb of the decision to charge (i.e. are not passed to the CPS for a full charging decision).

¹⁰ *DSD and NBV and the Commissioner of the Police for the Metropolis* [2014] EWHC 436

¹¹ To read the protocols see http://www.cps.gov.uk/publications/agencies/rape_protocol.html. See also the HMIC's and the HM Crown Prosecution Service Inspectorate report Forging the links: Rape investigation and prosecution; finally see the forthcoming research of Professor Stanko (reported on here <http://www.independent.co.uk/news/uk/crime/exclusive-rape-of-vulnerable-women-has-been-effectively-decriminalised-9161336.html>).

¹² See for example, the ACPO / NPIA / CPS guidance on the investigation and prosecution http://www.acpo.police.uk/documents/crime/2011/20110303%20CBA.%20Guidance%20for%20Investigating%20and%20Prosecuting%20Rape_Public%20Facing_2010.pdf.

¹³ *DSD and NBV and the Commissioner of the Police for the Metropolis* [2014] EWHC 436 paras 9 and 14.

¹⁴ In relation to rape see the Rape Monitoring Groups reports <http://www.hmic.gov.uk/publication/rape-monitoring-group-digests-data-and-methodology-2014/>.

15. Rights of Women also wishes to take this opportunity to reiterate our position that the laws on prostitution in England and Wales should be reformed to criminalise the purchase of sex/sexual services and decriminalise all those involved in selling them (often referred to as the Nordic model). Whilst we do not have the capacity to go into all the arguments here, Rights of Women would like to draw Committee members' attention to the recent non-binding resolution of the European Parliament on prostitution and gender-equality which states that prostitution is a human rights violation.¹⁵

16. Rights of Women submits that the Committee should consider the following:

- a. The obligation to carry out an effective investigation should be made clear in relevant ACPO / NPIA guidance; this guidance should be placed on a statutory footing and be accompanied by clear remedies to enable enforcement.**
- b. Decisions to take no further action or 'no crime' a case should be amenable to review in a manner that is analogous to the CPS' Victims' Right to Review.**
- c. The rights of victims outlined in the revised Code of Practice for Victims of Crime should be accompanied by clear remedies to enable enforcement.**
- d. The law on prostitution and sexual exploitation should be changed to shift criminal responsibility to the purchaser of sexual services; such a change should be implemented alongside the provision of funding for specialist services for women involved in prostitution.**

Forms of violence that disproportionately affect BMER women

17. Rights of Women welcomes the Government's commitment to addressing forced marriage and FGM, forms of VAWG which disproportionately (although not exclusively) affect BMER women.

18. In relation to the criminalisation of forced marriage, Rights of Women submits that, as with other forms of VAWG, a criminal justice response alone will do little to address the problem. The Rt Hon Keith Vaz MP, Chair of the Home Affairs Select Committee (HASC), has expressed concern that no one has yet been prosecuted for any offence under the Female Genital Mutilation Act 2003.¹⁶ We would contrast this position with that of other jurisdictions, notably France and Sweden, when prosecutions have successfully taken place.¹⁷ Rights of Women submits that Government attempts to

¹⁵ <http://www.europarl.europa.eu/news/en/news-room/content/20140221IPR36644/html/Punish-the-client-not-the-prostitute>.

¹⁶ This legislation applies to England and Wales; Scotland has its own legislation, the Prohibition of FGM (Scotland) Act 2005).

¹⁷ For example, Women's Asylum News issue number 62 July / August 2006 reported on a Swedish case where a man was jailed for 4 years and ordered to pay his 13 year old daughter damages of £26,000 for

criminalise forced marriage will prove equally problematic, particularly where it is alleged that the forced marriage took place abroad where the prosecution must prove both the deception and intent elements of the offence. Indeed, we share the concerns of other leading women's organisations who support victims of forced marriage, such as Southall Black Sisters, Imkaan and Ashiana Network, who argue that the criminalisation of forced marriage may discourage victims from seeking help. Rights of Women believes that ensuring access to legal aid and support from specialist VAWG services are vital to ensure that women and girls at risk of forced marriage are able to seek support and obtain protection.

19. In relation to the point raised on FGM; Rights of Women would like to draw Committee members' attention to our evidence to the HASC¹⁸ on two separate, but related, areas of concern:

- a. The lacuna in the current criminal law on FGM.
- b. The failure of the Home Office to meet the needs of asylum-seeking women who are at risk of, or who have experienced, FGM.

20. Rights of Women urges the Committee to consider calling on the Government to:

- a. Ensure the continued availability of civil legal aid to all victims of VAWG (see further below).**
- b. Ensure the continued availability of specialist support services for victims of FGM and forced marriage.**
- c. To reform the criminal law on FGM to ensure that it protects all women and girls, not just those who are British nationals or British residents.**
- d. Monitor the implementation of legislation on forced marriage and domestic violence.**

VAWG, asylum and migration

21. Rights of Women has frequently expressed concerns about the UK asylum process and its treatment of women asylum seekers.¹⁹ Our central concern is that women seeking asylum are made vulnerable to violence (both here, as a result of destitution, or in their country of origin, following return) because of poor quality decision-making at all levels in their claims. Rights of Women has had sight of Asylum Aid's evidence to the Committee and would echo their concerns that practice in relation to decision-making (particularly in relation to credibility) does not meet the standards required

forcing her to undergo FGM when she was 13. See also <http://www.theguardian.com/society/2014/feb/10/france-tough-stance-female-genital-mutilation-fgm>.

¹⁸ Also available on the Rights of Women website here <http://www.rightsofwomen.org.uk/policy.php>.

¹⁹ See for example, our evidence to the Home Affairs Select Committee on FGM and *Measuring Up? UK compliance with international obligations to protect women from violence* C Briddick, H Camplin, K Perks, E Scott and R Tweedale, Rights of Women (2010).

by relevant law on international protection or in relation to violence against women.

22. In addition, Rights of Women submits that the UK would better fulfil its obligations of *non-refoulement* under the Refugee Convention and the obligations in Articles 60(1), (2) and (3) of the Istanbul Convention by opting in to the recast EU Qualification Directive (QD) and Procedures Directive (PD):

a) The recast QD, at Article 10(d), places an obligation on decision-makers to consider that gender may determine membership of a particular social group or a relevant characteristic thereof. This obligation relevantly directs decision-makers to consider that simply being a woman may be capable of satisfying membership of a particular social group and that a woman may experience certain forms of persecution, including VAWG, as a woman, by reason of being a woman.²⁰

b) Article 7(2) requires that protection against harm be effective and of a non-temporary nature. The focus on effectiveness and durability emphasises that decision-makers must make an evaluation of whether protection is provided in practice, and whether it is in fact available to an applicant, taking into account their particular circumstances including any additional vulnerability or barriers to accessing protection by virtue of their status as a woman or girl. As prefaced in this submission, VAWG occurs in even the most democratic of societies and an evaluation of protection available in a particular set of circumstances, rather than generally to all citizens, is required. The reworded Article 7(2) may also prevent decision-makers from relying on non-state actors as an adequate means of providing protection against VAWG - for example the work of women's refuges or other NGOs - because the nature of services non-state agents provide in this context is often temporary and limited in scope.²¹

c) The recast PD mandates special procedural guarantees for applicants with gender-related and/or VAWG aspects to their claim and recognises the barriers such applicants face in accessing procedures and substantiating claims. Opting in to these procedural guarantees accords with the Government's promised action to improve gender-related guidance and training to asylum and immigration staff²² and would strengthen the Government's ability to deliver these promises.

²⁰ See for example, *CEDAW General Recommendation 19: Violence against Women* at [1]: "Gender-based violence is a form of discrimination that seriously inhibits women's ability to enjoy rights and freedoms on a basis of equality with men."

²¹ See ECRE, "*Information Note on the Directive 2011/95/EU of the European Parliament and of the Council of 13 December 2011 on standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection, for a uniform status for refugees or for persons eligible for subsidiary protection, and for the content of the protection granted (recast)*", pages 6-7.

²² HM Government, *A Call to End Violence Against Women and Girls: Action Plan 2013*, at points 47 and 48, page 27. The CEDAW Committee recommended the continuation of training on gender-sensitive approaches to immigration and asylum applications: CEDAW, Concluding observations on the seventh

The CEDAW Committee has recently recorded its concern about the lack of gender-sensitive approaches to women who are survivors of violence in the UK's asylum system.²³ A key issue is the assessment of credibility of these women. The Government should ensure, through training, that stereotyping of women does not influence the assessment of credibility. Decisions must not be made by reference to assumed behaviour of a typical 'victim' of VAWG.²⁴ This challenging of attitudes must form part of, and be taken as seriously as, the Government's wider efforts to eradicate stereotyping of women, for example, in the media.²⁵

23. A related concern is the impact of Government attempts to create a "hostile environment" for migrants and their impact on asylum-seeking and migrant women who have or are experiencing gender-based violence. In particular, Rights of Women has concerns that proposals in the Immigration Bill, including to charge for healthcare and limit access to the rental market will, if implemented, trap women experiencing violence in abusive situations and prevent them from accessing life-saving services. The Bill would impact both on women who have legally migrated for reasons of employment, family or study as well as those who are in the UK without leave.
24. In our evidence to the Bill Committee²⁶, we explained that the proposed changes would require migrant women to pay to attend hospital in the event they experience violence at home. They would also require migrant women who experience sexual violence to pay for sexual assault services and forensic evidence gathering whether or not they report an incident to the police (the commissioning of these services having passed to NHS England). These changes will therefore have a profoundly detrimental effect to women experiencing domestic or sexual violence or who are victims of trafficking.
25. The Home Secretary has repeated a commitment to reducing both sexual and domestic violence against women and girls²⁷; this Bill makes it clear that this commitment extends only to British-national or settled women, a situation we believe

periodic report of the United Kingdom of Great Britain and Northern Ireland, CEDAW/C/GBR/CO/7, 30 July 2013, at [59]).

²³ CEDAW, *Concluding observations on the seventh periodic report of the United Kingdom of Great Britain and Northern Ireland*, CEDAW/C/GBR/CO/7, 30 July 2013, at [58].

²⁴ See for example *Vertido v the Philippines* (CEDAW/C/46/D/18/2008) at [8.4]: "...the Committee stresses that stereotyping affects women's right to a fair and just trial and that the judiciary must take caution not to create inflexible standards of what women or girls should be or what they should have done when confronted with a situation of rape based merely on preconceived notions of what defines a rape victim or a victim of gender-based violence, in general."

²⁵ HM Government, *A Call to End Violence Against Women and Girls: Action Plan 2013*, point 12, page 18.

²⁶ Evidence to the Bill Committee, IB11 available at

<http://www.publications.parliament.uk/pa/cm201314/cmpublic/immigration/memo/ib11.htm>

²⁷ Theresa May, foreword to 2013 Action Plan on VAWG.

to be discriminatory and unacceptable. Contrary to the espoused belief of the Immigration Minister²⁸ that no one should be forced to remain in a violent relationship, these changes will make it harder for women to access services and escape abuse.

26. Rights of Women drafted an amendment to the Immigration Bill to extend the protection offered to victims of domestic violence who are in the UK on any form of dependant visa.²⁹ During its debate the Government made clear their position that migrant women who experience violence and who cannot access the Domestic Violence Rule would lose their dependant visa on separation from a partner and would be expected to return to their country of origin immediately.³⁰ Taken together with the other measures proposed, this has serious repercussions for women who are unable to immediately return. This includes women with children in the UK (who may not have the other parent's permission to remove the child from the jurisdiction), who are working or who do not have the resources for an immediate return. Under the proposed provisions, they would be unable to leave the family home and rent further accommodation, to work or to access hospital treatment for them or their children.

27. Rights of Women calls on the Committee to request the Government:

- a. Opt in to the recast EU Qualification Directive and Procedures Directive;**
- b. Rethink the provisions of the Immigration Bill discussed to ensure that women experiencing violence are able to leave their relationship and, if necessary, seek protection in the UK.**
- c. Ensure that Government measures to respond to VAWG apply to all women without discrimination, including asylum-seeking women and migrant women.**

VAWG and access to justice

28. Rights of Women would like to draw the Committee's attention to obligations that the UK has under international law to protect women from violence and secure their access to justice, particularly under the Convention on the Elimination of all Forms of Discrimination against Women as elucidated, with specific regard to legal aid and violence against women, in the *Concluding observations on the seventh periodic report of the United Kingdom of Great Britain and Northern Ireland*.³¹

²⁸ <https://www.gov.uk/Government/news/support-for-victims-of-domestic-violence>

²⁹ <http://www.publications.parliament.uk/pa/bills/cbill/2013-2014/0110/pro1101911p.31-36.html>

³⁰ Further information also available on the Rights of Women website here

<http://www.rightsofwomen.org.uk/policy.php>.

³¹ *Concluding observations on the seventh periodic report of the United Kingdom of Great Britain and Northern Ireland* Adopted by the Convention on the Elimination of All Forms of Discrimination against Women Committee at its fifty-fifth session (8-26 July 2013) CEDAW/C/GBR/CO/7.

29. The Committee is aware that on 1 April 2013 the Legal Aid Sentencing and Punishment of Offenders Act 2012 (LASPO) came into effect removing legal aid for the majority of private family law and immigration matters. Accompanying LASPO, the Civil Legal Aid (Procedure) Regulations 2012³² introduced criteria whereby legal aid for private family matters which would otherwise be outside the scope of the legal aid scheme could still be available for those affected by domestic violence. Legal aid would be available if survivors could provide prescribed evidence that they had experienced domestic violence. This evidence focuses on evidence of seeking and obtaining criminal justice remedies or other statutory or medical support.³³
30. Rights of Women believes that these changes to the legal aid scheme make it extremely difficult, if not impossible for women to access the family law remedies which enable them to build safe and equal futures for themselves and their children following the end of an abusive relationship. In *Evidencing domestic violence: a barrier to family law legal aid*³⁴ Rights of Women, along with Women's Aid England and Welsh Women's Aid explored the impact of the domestic violence evidence gateway on survivors of domestic violence. Our findings showed that the changes have restricted access to legal advice and representation to women affected by domestic violence, women whom the Government has expressly sought to protect from the removal of family law from the scope of legal aid:
- a. Half of all women surveyed did not have the prescribed forms of evidence to access family law legal aid.
 - b. 60.5% of respondents took no action in relation to their family law problem as a result of not being able to apply for legal aid. 23.7% paid a solicitor privately and 15.8% represented themselves at court.
 - c. 16.7% of respondents to our survey had to pay over £50 to obtain copies of the required evidence.
 - d. 37.5% of respondents had to wait longer than 2 weeks to get copies of their evidence.
31. Rights of Women is also concerned about the impact that the removal of the majority of immigration law from the scope of legal aid has had on migrant women experiencing violence. Whilst legal aid remains available for applications under the Domestic Violence Rule and its European law equivalent, the majority of women that we advise who have an insecure immigration status and who are experiencing VAWG are not able to benefit from these rules and are therefore unable to access legal advice

³² See Regulation 33, Civil Legal Aid (Procedure) Regulations 2012
<http://www.legislation.gov.uk/ukxi/2012/3098/regulation/33/made>.

³³ For full details see Rights of Women's briefing
http://www.rightsofwomen.org.uk/pdfs/Legal/Briefing_for_WA_WWA_members.pdf

³⁴ *Evidencing domestic violence: a barrier to family law legal aid* Rights of Women, Women's Aid England and Welsh Women's Aid in (August 2013)

and representation (even if their case involves VAWG and they have a valid basis for remaining in the UK).³⁵

32. Committee members are also aware that the Government is proposing to limit access to civil legal aid further through the introduction of a residence test. Rights of Women submits that the introduction of any residence test is a threat to the rule of law and the principle of equality before the law. It is unacceptable to deny, *de facto*, any group of people access to the courts and therefore to justice. Rights of Women is confident that the Committee is seized of the importance of individuals being able to resolve “without prohibitive cost or inordinate delay, bona fide disputes which the parties are unable themselves to resolve”³⁶ as the “denial of legal protection to the poor litigant who cannot afford to pay is one enemy of the rule of law”.³⁷ We would draw members’ attention to evidence we submitted to the Committee last year in response to the call for evidence on the implications for access to justice of the Government’s proposed legal aid reforms.

33. Rights of Women is aware that the Committee has considered the Government’s legal aid reforms in detail. Rights of Women reiterates its position that:

- a. the eligibility criteria for accessing family law legal aid must reflect the reality of the lives of women affected by domestic violence and the routes they seek to safety and broaden the list of prescribed evidence to include evidence of accessing advice and support from not just refuge services but other voluntary and statutory services;**
- b. that legal aid for immigration cases involving VAWG or children should be brought back into the scope of legal aid; and,**
- c. that the imposition of a residence test for civil legal aid is contrary to the rule of law.**

Conclusion

34. In addition to the recommendations made above, Rights of Women echoes the EU Fundamental Rights Agency’s conclusions that VAW in Europe is an extensive abuse of human rights and calls on the Government to ratify the Istanbul Convention without delay.³⁸

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³⁵ *Silent Voices Speak: strategies for protection migrant women from violence and abuse*, C Briddick, Rights of Women (2011) www.rightsofwomen.org.uk/policy.php.

³⁶ *The Rule of Law*, Tom Bingham, Allen Lane (2010) page 85.

³⁷ *Ibid* page 88.

³⁸ Report of the EU Fundamental Rights Agency on gender-based violence against women in Europe available here <http://t.co/EVqQJ40UDM>.

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