



How the Bill of Rights harms the fight to end violence against women



Foreword

Vera Baird DBE QC, Victim's Commissioner for England and Wales



Long before becoming Victims Commissioner, I was a practising Queen's Counsel barrister who lectured on the Human Rights Act, to other lawyers, as part of a training faculty. I am very clear that the Human Rights Act (HRA) has allowed victims of crime to improve their criminal justice rights, driving better service from police, prosecutors and the courts. But there is a long way to go, as recent events show, especially for victims of violence against women and girls which this resource is about. Though the Justice Secretary frequently says that he wants victims to be 'at the heart of our justice system', he is introducing a 'British Bill of Rights' which attacks human rights and will undermine those improvements for victims and will block or at least impede any further much-needed progress.

As recently as December 2021, former Appeal Court Judge Sir Peter Gross reported on an Independent Review of the Human Rights Act set up by the government itself. Essentially, the review said that the HRA was working as it should: indeed it recommended a programme of education to ensure that it would be used more. It advocated none of the contents of this rights-removing Bill of which Sir Peter has been critical. The cross-party Joint Parliamentary Committee on Human Rights scrutinised the Bill, saw no need for it and criticised its likely impact on victims. The former Secretary of State for Justice, Sir Robert Buckland QC MP, a Crown Court Recorder and, like me, a former Solicitor General, has publicly spoken out against it. And in an attempt to get the Justice Secretary a further opinion on the impact of this proposed measure, the Domestic Abuse Commissioner and I asked him to make the Bill a Draft Bill, like the Victims Bill. That would have let the cross-party Justice Select Committee examine it, but it seems that there is no wish for further scrutiny, since he refused.

At this time when the newspapers report daily that the state is not effectively protecting victims against crime, prosecutions are few, convictions minute in number and women frequently dismissed when they try to report rape, harassment, domestic abuse and other serious offences, the government should be enhancing human rights not depleting them. As this resource sets out, some domestic violence victims' lives will have been saved by a police duty, under the Human Rights Act, to warn them in writing of a threat of death. Those notices can get terrified victims and their children emergency housing away from the perpetrator. Some victims of the black cab rapist, Worboys, sued the Metropolitan police who failed systematically to investigate properly and catch him, thereby failing to protect those women, as the Human Rights Act requires, from the inhuman and degrading treatment which is rape. Over the years, using the Human Rights Act duties to ensure that these agencies simply do their job properly has improved public services more widely. Disastrously unjust inquests like the first one into the Hillsborough deaths cannot happen now. The duty to protect our right to life gave bereaved families a standing to tackle the police failures that day, and now gives Coroners power to make wide ranging recommendations for the prevention of future deaths.

All of these uses of the state's duty to protect our human rights will become impossible or hugely more difficult if this Bill is passed. There is no quid pro quo of benefit to anyone to set against this loss and, as ever, women will be at the forefront of the damage. There is a job to do to use simple facts and examples about ordinary people to demonstrate the wholly destructive nature of this ideological legislative proposal. This resource makes a great contribution and we must gather round it and promote it everywhere we go.



Introduction

In June 2022, the Government introduced a 'Bill of Rights' Bill to Parliament, intended to replace the Human Rights Act (1998). The Violence Against Women and Girls' (VAWG) sector and women's rights organisations are highly concerned by this proposal, including specifically what this decision will mean for women and girls subject to gender-based violence. We have created this resource to indicate how, and the extent to which, the Human Rights Act is currently relied upon to protect women and girls from violence.

The primary examples are:

- ▶ **To ensure the investigation and prosecution of violence against women and girls**
- ▶ **As a route to providing justice and improving policy and practice for victims and survivors failed by public authorities**
- ▶ **To ensure action is taken to prevent immediate threats to the lives of women and girls**
- ▶ **To protect victims of stalking and harassment**
- ▶ **To protect victims of modern slavery and trafficking**
- ▶ **To ensure proper inquests following the death of women subject to VAWG**
- ▶ **To take action against abuse in schools**

We refer to case studies and examples provided by specialist VAWG services and lawyers, as well as relevant court judgments which have set a precedent for the protection of women and girls from VAWG. We have not sought to gather every and all examples of how the HRA is relied upon, and instead focus these around two key parts of the Bill of Rights. We would emphasise that the application of the Human Rights Act (HRA) is diverse and far-reaching, and that many of the benefits of the legislation for women and girls go far beyond what reaches the courts.

This resource has been created by the End Violence Against Women Coalition, Rights of Women, the Centre for Women's Justice and Southall Black Sisters, in collaboration with organisations from the VAWG sector and lawyers. Our very many thanks to all of the organisations listed below who contributed to this work in some capacity through conversations with frontline staff, colleagues and survivors, gathering case examples, circulating information, submitting survey responses and compiling examples of how the Human Rights Act is used in their everyday work.

For more information and case examples, please see an earlier (2017) report on the Human Rights Act and violence against women and girls by the End Violence Against Women Coalition and Southall Black Sisters: *Violence against women and girls: Protecting women's human rights and holding the state to account*.¹

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I brought the case because I couldn't live with the idea that this could happen again and again and that women would not be protected from Worboys and other serial rapists. I cannot believe that ten years of extremely stressful litigation could all have been for nothing.
”

DSD, survivor of 'black cab rapist'
Worboys, August 2022

1 See: <https://www.endviolenceagainstwomen.org.uk/wp-content/uploads/2017/11/Human-Rights-Act-report-Oct-2017.pdf>



Organisations involved:

Agenda

APPEAL

Apna Haq

Ashiana Network

Ella's

End Violence Against Women Coalition

Centre for Women's Justice

Centre for Military Justice

Imkaan

Juno Women's Aid

Latin American Women's Rights Service

Leigh Day

Migdal Emunah

Police Spies Out of Lives

Public Interest Law Centre

Rape Crisis England & Wales

Rene Cassin

Rights of Women

Refuge

Solace Women's Aid

Southall Black Sisters

Women's Aid Federation of England

Women's Aid Scotland

Background: How did we get here?

The Conservatives 2019 manifesto included a commitment to “update the Human Rights Act” and in 2020, an Independent Human Rights Act Review (IHRAR) panel was appointed to review the operation of the Act. While the IHRAR recommended some changes, it concluded that the Act is broadly working well and did not recommend an overhaul of the legislation. One of its major recommendations instead was for a programme of ‘civic and constitutional education’ on human rights. In April 2022, the cross-party Joint Select Committee on Human Rights similarly concluded that “we do not think a case has been made for replacing the Human Rights Act with the British Bill of Rights in the form proposed by the Government.”²

In December 2021, the Ministry of Justice consulted on proposals to replace the HRA with a Bill of Rights. The majority of respondents did not agree with the proposals. Various Select Committees³ and the Victims’ Commissioner for England and Wales, the Domestic Abuse Commissioner for England and Wales and the Children’s Commissioners of Scotland, Wales and Northern Ireland called for any such Bill to be subject to pre-legislative scrutiny,⁴ but this ask was rejected. The Bill of Rights was introduced in the House of Commons for First Reading in June 2022.

“
We do not think a case has been made for replacing the Human Rights Act with the British Bill of Rights in the form proposed by the Government.
”

Joint Committee on Human Rights, April 2022

Political context: Violence against women and girls in the UK

The Bill of Rights has been put forward at a time when violence against women and girls remains disturbingly persistent and pervasive in the UK. Victims and survivors are frequently failed – and often re-victimised – by the public authorities and agencies with duties to protect them from harm. Indeed, the transformation of the criminal justice response to forms of VAWG such as rape, has been the recommendation of multiple inspectorate inquiries and independent reviews initiated over the past 18 months.

- ▶ Over 27% of women have experienced domestic abuse since the age of 16⁵
- ▶ A woman is killed by a man every three days in the UK⁶
- ▶ 1 in 5 women are victims of sexual assault (or attempted assault) in their lifetime
- ▶ 1 in 5 women have been subject to online harassment or abuse⁷

2 See: <https://committees.parliament.uk/publications/9597/documents/162420/default/>

3 The Lords Constitution Committee, the Justice Committee, the Joint Committee on Human Rights and the Public Administration and Constitutional Affairs Committee.

4 See: <https://committees.parliament.uk/publications/22473/documents/165604/default/>

5 See: <https://www.gov.uk/government/publications/violence-against-women-and-girls-national-statement-of-expectations-and-commissioning-toolkit/violence-against-women-and-girls-services-commissioning-toolkit-accessible>

6 See: <https://www.femicidecensus.org/men-still-killing-one-woman-every-three-days-in-uk-we-need-deeds-not-words/>

7 Amnesty International UK (2017) Online abuse of women widespread in UK <https://www.amnesty.org.uk/online-abuse-women-widespread>

At the same time, frontline specialist VAWG services are under immense pressure due to demand,⁸ with specialist 'by and for' services for Black and minoritised, migrant, LGBT+ and Deaf and disabled survivors under particularly acute strain due to the level of need and the barriers to service provision, including institutional discrimination.⁹ These circumstances have worsened in the Covid-19 pandemic,¹⁰ and VAWG services predict that this worrying trend is set to continue in years to come, particularly as women's resources are repeatedly hardest hit in a difficult economic climate with a growing cost of living crisis. Women with insecure immigration status are at particularly high risk of experiencing VAWG as a result of the Home Office's implementation of "hostile environment" policies, which creates enormous risks and barriers to safety for migrant survivors.¹¹

All of the above presents a bleak but necessary backdrop to the Government's plans to withdraw the rights and protections provided to women and girls by the Human Rights Act legislation, and highlights why the Bill of Rights is a major concern for victims and survivors of VAWG and the services that support them. Women and girls are not in a position where they can afford to lose the safety net and mechanism of accountability that the Human Rights Act provides. The Bill of Rights pledges to take away an essential tool in our fight to end violence against women and girls, hence its designation by many as a Rights Removal Bill.

8 For example, in 2021 the number of refuge spaces available in England fell short of the Council of Europe's minimum recommendation by 24.2%. See: <https://www.womensaid.org.uk/wp-content/uploads/2022/03/The-Domestic-Abuse-Report-2022-The-Annual-Audit.pdf>

9 See: <https://static1.squarespace.com/static/5f7d9f4addc689717e6ea200/t/621d22fd8548ef4509c01832/1646076691042/2018+%7C+Imkaan+%7C+From+Survival+to+Sustainability.pdf>

10 See: <https://www.endviolenceagainstwomen.org.uk/wp-content/uploads/2020/04/EVAW-Coalition-Briefing-on-COVID19-Pandemic-and-Duty-to-Prevent-VAWG-April-2020-FINAL.pdf>

11 See: <https://southhallblacksisters.org.uk/wp-content/uploads/2021/01/DA-Bill-Briefing-Paper-2.pdf>



The Bill of Rights: What are the main concerns?

There is unanimity amongst the VAWG sector that the Bill of Rights as a whole will be harmful for women and girls. In this resource, we highlight only two key concerns, and share case studies to demonstrate how these proposals pose a risk to victims and survivors of VAWG. These are:

1. The rollback of the positive obligations of public authorities
2. The introduction of additional hurdles to making human rights claims and awarding damages

We would also briefly note the negative impact of the Bill of Rights on devolved nations, which have called the Bill both “unwelcome and unnecessary”.¹² Whilst not the focus of this resource, it is significant that the Human Rights Act is embedded in the devolved settlements. There are serious concerns that the legislation will undermine the Good Friday Agreement,¹³ as well as cause significant legal uncertainty and challenges around the interpretation of the European Convention on Human Rights (ECHR) in Scotland for example, which has been a core element of devolution in Scotland for over 20 years.

1. The Bill of Rights: The rollback of the positive obligations of public authorities

As a result of the Human Rights Act, public authorities, such as the police, local authorities, schools, the Crown Prosecution Service and probation services, are currently all required to take proactive steps to protect women and girls’ rights to live free from violence. Known as ‘positive obligations’, these duties are currently relied upon by victims and survivors of VAWG to ensure that effective action is taken to protect women from harm – ranging from schools’ duties to protect children from sexual assault in education settings to the police taking adequate steps to protect women at imminent risk of domestic violence or homicide, including so-called honour-based violence. We have listed case study examples below to demonstrate the role that positive obligations have played in assisting women and girls.

Clause 5 of the Bill of Rights however, will limit such obligations.

The Bill of Rights instead suggests that we should allow public authorities to use their “own expertise” when deciding what steps to take to protect individuals, with an eye to the resources available to them. When challenged on what the rollback of positive obligations would mean for victims and survivors of VAWG specifically, the Government has stated that this is justified because “...it is important that the police (and public authorities generally) are able to exercise their professional judgement in operational decision-making, and the allocation of resources”.¹⁴

12 See: <https://gov.wales/devolved-nations-criticise-unwelcome-and-unnecessary-uk-government-plans-drop-human-rights-act>

13 For more information, see: <https://www.womensaid.org.uk/wp-content/uploads/2022/03/The-Four-Womens-Aid-Federations-from-Scotland-England-Wales-and-Northern-Ireland-briefing-on-the-Human-Rights-Act-reform.pdf>

14 This quote is from a letter written by the Deputy Prime Minister and Justice Secretary Dominic Raab to Amnesty International UK and 50+ civil society signatories, in response to their letter to the Prime Minister. It warned that the Bill of Rights would endanger women and girls, and is covered here: <https://www.theguardian.com/law/2022/may/09/consequences-dire-human-rights-act-ditched-northern-ireland-boris-johnson>

Widespread concerns regarding public authorities' response to VAWG

The idea that we can simply leave decisions about women's safety to the 'professional judgement' of the police and other public authorities, whilst removing a mechanism for accountability, is difficult to accept at a time when the response to VAWG is under scrutiny and women's trust in the police and other public authorities is vanishingly low.¹⁵ This also comes at a time when we are witness to a collapsing volume in prosecutions of rape, sexual violence, domestic abuse and other forms of VAWG,¹⁶ to the extent that rape could be regarded as effectively decriminalised. We are only one year on from the Government's *End to End Rape review*, in which it acknowledged that "victims of rape are being failed".¹⁷

We are also all too aware of the serious and ongoing issues of institutional misogyny¹⁸ and racism¹⁹ in policing, along with police misconduct, police-perpetrated abuse,²⁰ brutality and state complicity in VAWG.²¹ Following the murder of Sarah Everard by a serving Metropolitan police officer and revelations about police-perpetrated abuse and police misconduct, there is an ongoing non-statutory inquiry and a review into the culture and standards of behaviour of the institution, as well as six police forces operating under 'special measures' due to 'systemic concerns'.²²

In the course of creating this resource, VAWG services have also highlighted a range of examples which are cause for concern about public authorities' responses to VAWG, particularly the police and local authorities, to the extent that frontline VAWG organisations have to make formal complaints about the treatment of victims and survivors. In other cases, survivors feel defeated by their experience of reporting abuse and do not want to continue engaging with the system, including undergoing the process of filing a formal complaint, particularly as complaints procedures are often unclear and not easily accessible. Others fear that they will 'get into more trouble' should they make complaints. Some of the issues raised in our survey with VAWG organisations are included below with evidence of:

Police:

- ▶ Failures to take accurate statements from women after reports of domestic violence (DV)
- ▶ Losing statements provided by survivors of DV
- ▶ Accusing women of lying about their physical injuries from abuse and that of their children
- ▶ Dropping or reducing criminal charges against perpetrators; or 'no criming' them
- ▶ Failures to act on breaches of non-molestation orders and restraining orders
- ▶ Failures to refer women to Multi-Agency Risk Assessment Conferences (MARACs)
- ▶ Failures to communicate with women and non-responses to inquiries

15 See: <https://www.endviolenceagainstwomen.org.uk/almost-half-of-women-have-less-trust-in-police-following-sarah-everard-murder/>

16 For example, over the past four years, rape prosecutions in England and Wales have fallen by 70%. See: <https://www.endviolenceagainstwomen.org.uk/evaw-launches-legal-action-against-cps-for-failure-to-prosecute-rape/>

17 https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1001417/end-to-end-rape-review-report-with-correction-slip.pdf

18 See: <https://www.policeconduct.gov.uk/sites/default/files/Operation%20Hotton%20Learning%20report%20-%20January%202022.pdf>

19 See: <https://chscp.org.uk/portfolio/local-child-safeguarding-practice-review-child-q/>

20 See: <https://www.justiceinspectorates.gov.uk/hmicfrs/publications/police-perpetrated-domestic-abuse-report-on-the-centre-for-womens-justice-super-complaint/>

21 See: <https://www.justiceinspectorates.gov.uk/hmicfrs/publications/liberty-and-southall-black-sisters-super-complaint-on-policing-and-immigration-status/>

22 See: <https://www.bbc.co.uk/news/uk-england-wiltshire-61993621>

- ▶ Arresting victims of DV following false counter-allegations
- ▶ Using victim-blaming language and minimising survivors' experiences of abuse²³
- ▶ Contacting a victim of DV to ask them on a date
- ▶ Sharing migrant victims' data with Immigration Enforcement when they report abuse rather than safeguarding them

And local authorities:

- ▶ Using victim-blaming language
- ▶ Denying DV has occurred
- ▶ Refusing DV survivors for priority need for safe housing
- ▶ Removing children from the care of survivors on the grounds of 'parental alienation'
- ▶ Failure to speak to disabled survivors' independently of their abuser where they are the carer
- ▶ Failures to safeguard young women and girls from forced marriage or so-called honour-based abuse due to 'cultural or religious sensitivity'
- ▶ Delaying referrals for children who are close to their eighteenth birthday
- ▶ Discriminating against survivors with insecure immigration status and No Recourse to Public Funds, such as social services' refusing to house mothers with their children
- ▶ Failure to provide interpreters or independent accredited interpreters
- ▶ Housing a vulnerable survivor of child sexual exploitation and domestic violence with mental health needs in mixed sex accommodation with shared facilities

VAWG services reported that Black and minoritised women and disabled women are more frequently disbelieved by local authorities about their experience of abuse, and more likely to encounter gatekeeping and poor practice which require complaints or legal challenges, the latter of which are relied on as a last resort. Migrant survivors subject to No Recourse to Public Funds are frequently denied support by children's social care in particular, even where local authorities have legal obligations towards them and their children.²⁴

There is grave concern that the Bill will make it easier for authorities to prioritise cost savings above the human rights of women, especially those already facing multiple barriers to accessing support and service provision.

For all of these reasons, especially the continuing poor practice we have evidence of, it is not appropriate for any government to suggest that women and girls simply trust the professional judgement of the police and other public authorities without recourse to the Human Rights Act as a tool for accountability, when this has so often put women and girls in harm's way.

23 For example, survivors being told by police officers that because they do not appear to be 'traumatised' by their experience. Survivors being told by police officers that if they have managed to continue working that it 'can't have been that bad'.

24 Between July and September 2019, Southall Black Sisters was compelled to legally challenge social services on 18 occasions in response to their refusals to fulfil their legal duties to support to women with children subject to No Recourse to Public Funds under Section 17 of the Children Act 1989 <https://southallblacksisters.org.uk/wp-content/uploads/2021/01/DA-Bill-Briefing-Paper-2.pdf>

**THE HUMAN RIGHTS ACT IS
OFTEN THE ONLY TOOL
TO HOLD THE POLICE
WOMEN HAVE
TO ACCOUNT**



In what way do positive obligations protect women and girls?

Government has suggested that positive obligations are not an effective means of ensuring accountability, however it is our experience that the Human Rights Act is an essential tool for women's protection.²⁵ We highlight below some of the key ways in which positive obligations are relied upon to protect women and girls from harm.

a. To ensure the investigation and prosecution of sexual violence, domestic violence and other forms of VAWG

Where there is inaction by the police, schools and other public authorities in response to rape or domestic violence for example, VAWG services and lawyers can refer to the 'investigative duty' in the Human Rights Act to challenge such inaction. This investigative duty, founded on the Human Rights Act, results in public authorities taking action to protect victims and survivors of VAWG where they could otherwise have failed or refused to do so, thus protecting such victims. This can include, for example, the investigation of those responsible for violence and can, and in some cases has, resulted in convictions which would not otherwise have occurred. Often, the reference to potential litigation can bring about action to protect women from harm without the need to commence legal proceedings.

“ Many people wrongly assume the police have always had a legal obligation to investigate crimes. In fact, only the positive duties arising under the Human Rights Act, impose a duty on the police to properly investigate very serious offences like rape and are the only way victims can seek justice when they have been failed. ”

Debaleena Dasgupta, Solicitor

Case provided by Centre for Women's Justice

After a woman reported a rape and physical attack to the police, the police decided to take no further action in respect of her report. A Victim's Right to Review²⁶ was submitted, but the decision of the investigating officer to take no further action was upheld.

Her lawyers wrote a pre-action letter to challenge this decision, outlining that several obvious lines of enquiry into her allegations of rape and Actual Bodily Harm (ABH) had not been conducted. They argued that it was in breach of the state's positive obligation under the Human Rights Act to carry out an effective investigation, not to take these steps. The lawyers threatened litigation under the Human Rights Act, should the police fail to conduct an effective investigation.

As a result of the letter, the case was reopened. The reviewing officer also reportedly told the Independent Sexual Violence Advocate supporting the victim that as a result of this case, they have reopened some of their closed cases, as it made them re-evaluate their approach to reports of rape. The Investigating Officer was also provided with training as she had never investigated a case of sexual offence before this one. In this way, the outcome for very many women and girls has been positively affected.

25 See: <https://www.endviolenceagainstwomen.org.uk/wp-content/uploads/2017/11/Human-Rights-Act-report-Oct-2017.pdf>

26 The Victim's Right to Review scheme provides a victim with a specifically designed process to exercise the right to review certain Crown Prosecution Service decisions not to start a prosecution or to stop a prosecution. See: <https://www.cps.gov.uk/legal-guidance/victims-right-review-scheme>

Even where legal challenges are not threatened or pursued, specialist VAWG services such as Ashiana Network report that even the possibility and act of providing victims and survivors with this option is significant:

In July 2021, an independent inspectorate highlighted 'systemic issues' in the police and Crown Prosecution Service response to rape, including inconsistent decision-making by investigators and prosecutors and frequent failures to implement measures introduced to resolve issues. It ultimately called for an "urgent, profound and fundamental shift in how rape cases are investigated and prosecuted."²⁷ Until the Human Rights Act came into force, there was no domestic remedy available to victims and survivors to challenge or seek justice for such investigative failures. The case above demonstrates the crucial role that the Human Rights Act and positive obligations play in the context of getting cases back on track and ensuring there is protection for women in instances where public authorities fail to carry out their statutory duties.

“
...even giving [victims of VAWG] this option of [a legal challenge under the HRA], acknowledging the failures they faced from housing, the police, the CPS, courts to support and safeguard them and saying “you can challenge this” has meant a lot and was reassuring for so many women. Because whatever the outcome is, being able to hold someone accountable for their decisions is very important in a survivor's journey and recovery.
”

Senior Specialist Advice Worker,
Ashiana Network

b. As a route to providing justice and improving practice for those failed by public authorities

In circumstances where there are significant failures by public authorities to protect women and girls subject to VAWG, the Human Rights Act can also provide remedies to victims and survivors and/or their families. These cases have sought to highlight the failures of public authorities to fulfil their positive obligations to protect women and girls. In many cases, as well as providing evidence, answers, apologies and financial awards to women and girls and their families, the legal challenges have resulted in improvements in the policies and practice of public authorities, to avoid repeating such grave errors in the future treatment of victims and survivors of VAWG.

27 See: <https://www.justiceinspectors.gov.uk/hmicfrs/publication-html/a-joint-thematic-inspection-of-the-police-and-crown-prosecution-services-response-to-rape-phase-one/>

“ I brought the case because I couldn't live with the idea that this could happen again and again and that women would not be protected from Worboys and other serial rapists. I cannot believe that ten years of extremely stressful litigation could all have been for nothing. ”

DSD, survivor of Worboys, August 2022

“ The way I was treated by the police probably had a worse impact on me than the original rape. I brought the case because I did not want any other woman to go through what I did. ”

NBV, survivor of Worboys, August 2022

The survivors of John Worboys and their case against the Metropolitan Police²⁸

Two women who were raped by the so-called 'black cab rapist' John Worboys were able to rely on the Human Rights Act to challenge the egregious failures of the Metropolitan police force which failed to properly investigate their cases. This judgment has provided a significant precedent in efforts to end violence against women and girls, who are so often still let down by authorities.

John Worboys was a black cab taxi driver who terrorised women in the London area for the best part of a decade, committing over 100 rapes and sexual assaults. His intent in driving the cab was identified as having “nothing to do with taking [women] home”, but was instead to ensure that women were “completely at his mercy”, in order to sexually assault them. Worboys “wanted to ensure that there would be no struggle” and so would drug his victims in “in the hope that they would render them unconscious” and cause memory loss. The first complaint was made to the police in 2003, with further complaints in July 2004, June 2005, April 2006, August 2006, October 2006, July and December 2007 and January and February of 2008. Worboys was eventually convicted in 2009 for 19 sample cases of separate sexual assaults.

DSD, who was a victim of Worboys and reported to the police in May 2003, expressed on at least four occasions that police were not taking her complaint seriously before the investigation against Worboys was closed in February 2004. She felt “the police did not believe her and felt that she was lying.” In early 2008, DSD, having learned of the arrest of Worboys, recontacted the police and was properly interviewed. NBV, who was sexually assaulted by Worboys in July 2007, reported to the police the following day but by October 2007, it was authorised that no further action would be taken. The case was never treated as a serious sexual assault for record keeping purposes so no “closing report” on the case was ever prepared. NBV's case was re-opened following an article in the Sun newspaper about a suspected “black cab rapist” in February 2008.

28 Commissioner of Police of the Metropolis v DSD and another [2018] UKSC 11 <https://www.supremecourt.uk/cases/docs/uksc-2015-0166-judgment.pdf>

Both DSD and NBV sought a declaration and damages on the basis that the police had failed at both a systemic and an operational level to investigate their claims of sexual assault, arguing that there was a positive duty on the State to conduct an effective investigation.

The High Court identified a series of systemic failings “which went to the heart of the failure of the police to apprehend Worboys and cut short his 5-6 year spree of violent attacks.” The Metropolitan Police sought to challenge this ruling, and four women’s organisations, the End Violence Against Women Coalition, Southall Black Sisters, nia and Rape Crisis England & Wales, intervened in the Supreme Court case.²⁹

The Supreme Court ruling held that the right to be free from inhuman and degrading treatment, as set out in Article 3 the Human Rights Act, imposes a duty on the state to conduct adequate and effective investigations into allegations of inhuman or degrading treatment by third parties. It concluded that “egregious” and significant errors in an investigation can give rise to a human rights claim. It is not enough to simply have the right processes and policies in place – significant failures in investigations can also breach the law.

The judgment was a landmark case for women and girls which could not have been brought without the Human Rights Act. Sarah Ricca of Deighton Pierce Glynn Solicitors, solicitor for the four women’s groups said: “The Supreme Court’s ruling that those failings were unlawful is a vindication of the right to equal protection from the law for women and for all those who have historically been failed by the criminal justice system.”³⁰ The judgment directly resulted in police forces better resourcing sexual crime units, and has provided a significant precedent in efforts to end violence against women and girls.

In response to news of the Government’s Bill of Rights, DSD has since stated: “I cannot believe that ten years of extremely stressful litigation could all have been for nothing.” She says she brought the case because she couldn’t live with the idea that this could happen again and again and that women would not be protected from Worboys and other serial rapists. NBV has said that the way she was treated by the police “probably had a worse impact on me than the original rape.” She brought the case “because I did not want any other woman to go through what I did”.

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

30 See: <https://www.endviolenceagainstwomen.org.uk/supreme-court-rules-police-failings-in-worboys-breached-womens-human-rights/>

Case provided by Southall Black Sisters

Banaz Mahmud was murdered at the age of 20 and her body found in a suitcase buried in a garden three months later. Her father, uncle and five male cousins were convicted of her murder and/or related crimes. In the seven weeks leading up to her death, Banaz went to the police five times for assistance to save her life.

Banaz had entered into an arranged marriage at the age of 18, but returned to her family home after two years due to abuse. She began a relationship with a man who was deemed unsuitable by her parents, uncles and male cousins. She was taken to Sheffield and imprisoned in the house of a relative and beaten. Her uncle and other family members resolved to kill her and her boyfriend if they did not cease their relationship.

Banaz attended a police station and reported that she believed her life was in danger, explaining that she came from a culture where women may be killed if they brought shame on the family. She later reported receiving numerous threatening phone calls and wrote a letter to the police providing names of suspects, with details on how to trace them.

Later that month, Banaz was held down by her father and uncle and forced to drink a large amount of brandy. She became so frightened that she escaped and broke a neighbour's window in the course of escaping. Police officers who attended the incident did not take her seriously, dismissed her as being unable to hold her drink and an attention seeker and considered arresting her for criminal damage to the broken window. They failed to link her to the earlier reports to the police. The following month, Banaz's boyfriend was also approached and threatened by a group of men. Both he and Banaz separately reported this to the police. No steps were taken to investigate their reports. Instead, an officer attended Banaz's home and spoke to her parents who provided assurances that all was well.

Banaz disappeared the next day.

After her death, Banaz's sister Bekhal relied on the Human Rights Act to bring a civil claim against the Metropolitan Police for its failure to take steps which could have prevented her murder, in an effort to achieve acknowledgment by the police of their failings in the period leading up to her sister's death and in the hope others would not be similarly failed in the future. The police agreed to a settlement for an undisclosed sum.

“
I believe Banaz would still be alive today if the police had listened to her claims at the outset. But no. The authorities failed my sister. The police did not listen to Banaz in the final months of her short life.
”

Bekhal, sister of
Banaz Mahmud

31

The HRA continues to play a crucial role in ensuring public authorities take action to protect women and girls subject to so-called honour-based violence. Organisations such as Southall Black Sisters continue to support victims and survivors of so-called honour-based violence and women subject to intersectional discrimination “whose needs are often rendered invisible by mainstream policies and services”,³² including challenging inaction by the police in response to reports of abuse.

31 Page 248 of Bekhal Mahmud and Dr Hannana Siddiqui, *No Safe Place: Murdered by our father*. Ad Lib Publishers Ltd

32 Dr Hannana Siddiqui and Meena Patel (2010) *Safe and Sane: A Model of Intervention on Domestic Violence and Mental Health, Suicide and Self-harm Amongst Black and Minority Ethnic Women*, London: Southall Black Sisters Trust. Online: <https://store.southallblacksisters.org.uk/safe-and-sane-report/>

Case provided by Police Spies Out of Lives

From 2003 to 2009, Mark Kennedy was deployed by the Metropolitan police to collect intelligence on political activists. As part of the operation, he deceived women under his surveillance into intimate and sexual relationships.

Mark Kennedy met Kate Wilson in 2003, at a public meeting in a community centre in Nottingham. He was ten years older than her, he was 'charming and disarming' and they bonded over 'shared' interests and passions. Kennedy began a sexual relationship with Kate and involved himself in every aspect of her private and family life.

In Kate's words:

"He moved in with my friends. He became very close to my parents, and spent many nights in their home. He attended my grandmother's ninetieth birthday party. He met my entire extended family. We lived together for over a year. Even after our relationship ended, he made sure we remained very close friends for many years."

In 2010, Kate received a phone call to say that this man she'd shared her life with had never existed.

In September 2021, Kate Wilson won her ten-year legal battle over the use of undercover police against protest movements. The Investigatory Powers Tribunal (IPT), which hears cases involving the state's use of covert investigatory powers, found the Metropolitan Police had committed a "formidable list" of breaches of fundamental human rights under five different articles of the Human Rights Act.

The Tribunal not only ruled that the relationship had breached Wilson's human rights,³³ but that the Metropolitan Police had breached its positive obligations to protect women from the risk of their rights being violated in the same way. The training provided by the Metropolitan Police to undercover officers regarding sexual relationships was found to be "grossly inadequate"; there was a widespread failure of supervision of Kennedy by more senior officers; and there was a more general failure to put in place sufficient safeguards and protections to contain the risk that undercover officers placed long-term in protest movements would enter into intimate sexual relationships. Most worryingly, the Tribunal felt there was a "lack of interest" in protecting women and "evidence of a lack of care about the impact on women" among the senior officers supervising the operation.

One of the major implications of the Tribunal's findings about positive obligations is that in circumstances where the police chose to use secret operations like these, they have a duty of care to the individuals affected and are liable for any damage caused by their negligence.

“ I needed answers and bringing this case against the police was a way of fighting back, taking back control of the story of my life. The other reason we brought the case was to try and make sure it didn't happen again. In the beginning, that meant that no other women should be abused in the way that we were, but it's got a lot broader than that, over time.. ”

Kate Wilson

33 The tribunal found that the deceitful sexual relationship violated Ms Wilson's right to live free from inhuman and degrading treatment, Article 3 of the Human Rights Act. This is the closest that Police Spies Out of Lives have come to a legally binding prohibition against police officers having sex whilst actively deployed undercover. The Tribunal found that the violations of Wilson's rights were a form of sexist discrimination, under Article 14 of the Human Rights Act. It also ruled that the operation itself was "unlawful" and violated her rights to freedom of expression and association.

Police Spies Out Of Lives say this may have important implications for future cases brought against them for their abusive undercover operations.

Kate Wilson is only one of dozens of women deceived into these kinds of abusive relationships by undercover police officers. Twenty seven women are recognised as core participants in the ongoing Undercover Policing Public Inquiry. Nine women have received apologies from the Metropolitan Police and at least eleven have received compensation as a result of civil claims for damages. However, to date, no other process has resulted in the kind of in-depth investigation and detailed justice that was awarded in Kate Wilson's case, and that is because of the Human Rights Act.

Case from the Centre for Women's Justice

"Laura" was 17 years old when she was raped in April 2012 on a night out with friends. Her mother reported the rape within hours and Laura informed officers that her T-shirt may contain her attacker's DNA.

When Laura reported the rape to the police, she was disbelieved. The police did not send the T-shirt for forensic testing, despite the suspect denying all sexual contact with her, and failed to conduct a proper investigation into the rape. Documents seen by the Guardian revealed that detectives from the police force decided within two days of Laura's report that she was lying. A detective inspector, who was supervising the inquiry, told a junior colleague: "Fucking nick her." The police instead began secretly investigating her for perverting the course of justice, including filming her without her knowledge while claiming they were investigating the rape.

The police decided to take 'No Further Action' against the person responsible for the rape, without Laura's knowledge. Laura was asked to attend a police station, she believed to give further evidence. In fact, on arrival Laura was arrested. She was told: "This is what happens when you lie."

After being released from the police station, and while the possibility of a charge against her continued, Laura attempted to kill herself on two occasions. It was only during this period that a new team of officers reviewed the investigation, and the T-shirt that Laura had provided as evidence was properly tested. It in fact proved that she had been raped. Her rapist was later convicted.

Laura relied on the Human Rights Act to sue the police responsible, and the force settled the claim, admitting liability and apologising to her. That vindication helped her move forward with her life. Without the HRA, Laura would have had no ability to seek justice for what was done to her by those officers. Further, following the case, the police force stated that they had since changed their internal processes to ensure that any decision by an investigating officer to discontinue a rape investigation or release a suspect with no further action has to be agreed by an independent panel chaired by an assistant chief constable.

Debaleena Dasgupta, the young woman's lawyer, said: "Many people wrongly assume the police have a legal obligation to investigate crimes. However, the only way victims of crime can seek justice for these sorts of issues is using the Human Rights Act, which imposes a duty on the police to properly investigate very serious offences."

THE HUMAN RIGHTS ACT
HOLDS THOSE IN POWER
TO ACCOUNT



c. To ensure action is taken to prevent immediate threats to the lives of women and girls: Osman warnings or 'threat to life' notices

The Human Rights Act creates a positive obligation on the state to take steps to prevent loss of life where authorities knew or ought to have known 'a real and immediate risk to the life' of a person from the criminal acts of a third party.³⁴

Known as 'Osman warnings' or 'threat to life' notices, these duties can be relied upon by women and girls at immediate risk of harm from abuse. The Government has sought to undermine the benefit of these warnings by reference to their benefit to 'serious criminals', however they are relied on to protect women and girls from harm in contexts of domestic abuse and so-called honour-based violence. Their removal will diminish a duty of care to protect women and girls.

For example, Birmingham and Solihull Women's Aid have been able to rely on such notices to find immediate alternative housing for a domestic violence survivor and her children to protect their lives from her violent partner. The Henna Foundation has similarly stated that these notices are also of particular assistance to women and girls at risk of so-called honour-based violence.³⁵ The Bill of Rights threatens to withdraw this much-needed mechanism to ensure women's safety.

34 As a result of an ECHR case, *OSMAN v. THE UNITED KINGDOM*

35 See: <https://static1.squarespace.com/static/5aa98420f2e6b1ba0c874e42/t/6229ce4e7f6903747fec9ed6/1646906959767/CWJ+response+HRA+220308.pdf>

d. To protect victims of stalking and harassment

Positive obligations are also relied on to assist victims of stalking as VAWG organisations are able to draw on the Human Rights Act to challenge inaction in response to reports of harassment and stalking of women.

R (on the application of Waxman) v Crown Prosecution Service³⁶

Claire Waxman, now London's Victims' Commissioner, was subjected to serious and persistent harassment by a man she first met at college, for over a decade.

Over the course of many years, the perpetrator 'F' was convicted for harassment of Ms Waxman and subjected to community punishment and rehabilitation, and later subject to a restraining order. He was also barred from going within a mile of her address and ordered to pay compensation. However, the harassment continued. In 2006, the perpetrator tried to issue legal proceedings against Ms Waxman, but the claim was struck out. In March 2007, the perpetrator was prosecuted for a breach of the restraining order as a result of his continued harassment, to which he pleaded guilty. He received a suspended sentence of imprisonment, but breached the order yet again and was imprisoned for four months.

F continued to harass Ms Waxman and in 2010, again tried to issue proceedings against Ms Waxman, but this was struck out for a second time. F was made the subject of a 'civil restraint order' intended to prevent him from issuing proceedings without permission from a judge. Following a complaint by Ms Waxman, the Crown Prosecution Service (CPS) charged F with breaching the restraining order for trying to initiate civil proceedings against her. However, the CPS subsequently decided to discontinue the prosecution as it was concerned that it might be restricting F's right to access the courts.

Ms Waxman ultimately relied on the Human Rights Act to challenge the decision of the Crown Prosecution Service (CPS) not to prosecute the man who had stalked her for twelve years.

The High Court held that, in certain circumstances, Article 8 of the Human Rights Act (the right to respect for private and family life) can impose a positive obligation to provide an effective criminal remedy, and vulnerable individuals are particularly entitled to effective protection. The State therefore owed Ms Waxman a duty to take proper measures to protect her from harassment, and was in breach of its duty in failing to pursue the prosecution.

e. To protect victims of modern slavery and trafficking

Case provided by Tony Murphy at Bhatt Murphy³⁷

Five girls reported that they had been trafficked to the UK and held in domestic servitude. However, the police failed to investigate these allegations. 2.5 years after their complaints were made, a solicitor relied on the Human Rights Act to threaten legal proceedings against the police. That investigation led to the first case of a person being imprisoned for trafficking children into the UK for domestic servitude.³⁸

Four of the young women involved in the legal proceedings were all separately brought to the UK from Nigeria, at ages 11, 14 and 15 years old. They were all brought to homes in varying circumstances and required to care for other adults' children and carry out household tasks from morning through to night. All of the girls were physically abused. The first, O.O.O, was frequently struck with shoes, rulers, wooden ladles and other objects and told that she would be arrested if she went to the police. The second, O.O.A, was stabbed to the head with a heavy meat cleaver on one occasion, and beaten so severely that she was rendered unconscious on another. The third anonymous girl was exploited, slapped and pinched, and instructed to leave when she became unfit to work following an operation. The fourth girl also received aggressive and violent treatment. One of the girls withdrew her claim before the hearing.

Officers of the Metropolitan Police were asked to investigate the treatment of the girls at various points in time, but no such investigation occurred. On one occasion, one of the girls attended a police station and relayed being 'treated like a slave', before informing social services, but after her abusers refuted the allegations, no action was taken by the police and she was compelled to return to the home of her abusers as she had no other place to go.

In justification of their inaction, the police had suggested that there was a lack of cooperation from the young women. There were also queries raised about the extent to which young women's accounts were not regarded as credible by officers because in their minds, the women's willingness to assist in an investigation was linked to "obtaining some kind of advantage in relation to their applications to remain in this country".

The Court held that the young girls' rights had been breached by the police failing to investigate, and upheld that the police have a legal duty to conduct an effective and prompt investigation into a credible allegation that an individual's Article 4 rights had been violated, once it has been brought to their attention. Article 4 protects your right not to be held in slavery or servitude, or made to do forced labour. The Court further held that the trigger for the duty does not depend upon an actual complaint from a victim or near relative of a victim. The judge stated that: "In essence [the police] did nothing to commence an effective investigation" and that "It took an unequivocal threat of legal proceedings to galvanise an investigation".

37 See: <https://www.bailii.org/ew/cases/EWHC/QB/2011/1246.html>

38 See: <https://www.bbc.co.uk/news/uk-england-london-12799805>

The four girls received a declaration to the effect that their human rights were breached and were awarded damages. Following the civil trial, the police agreed to investigate this case which resulted in the successful prosecution of one of the individuals responsible.³⁹ This led to the first person imprisoned for trafficking children into the UK for domestic servitude.⁴⁰

This case, drawing on the Human Rights Act, is relied upon by women and girls who have been trafficked for various forms of exploitation to try to ensure that the police take steps to protect them and investigate their traffickers. For example, the Centre for Women's Justice relied on Article 4 in the case that was settled by Greater Manchester Police for their failure to investigate allegations made by victims of child sexual exploitation in Rochdale.

f. To ensure robust and independent inquests take place following the death of women

Bereaved families have relied on positive obligations to ensure there are robust and independent inquests carried out to interrogate the circumstances in which women have died. Not only do these inquests provide answers for families, but they also allow for proper scrutiny of decisions by public bodies in the lead-up to women's deaths, including police, social services and probation services. Known as 'Article 2-compliant inquests', these are significant in ensuring that public authorities learn lessons from the interrogation of the circumstances, particularly through the Coroner's prevention of future deaths reports, which make recommendations to protect potential future victims from being failed.⁴¹ Article 2 of the Human Rights Act is the right to life.

Article 2 inquests have led to important developments in addressing VAWG, including improved training for police and other public authorities, recommendations for improved practice by public bodies, and the creation of new VAWG offences.

39 https://www.demandat.eu/sites/default/files/DemandAT_CountryStudies_7_UnitedKingdom_Maroukis_0.pdf

40 <https://www.bbc.co.uk/news/uk-england-london-12799805>

41 There are several examples of where Article 2 and 3 have been used to hold state agencies to account for the suicide or suspected suicides or homicides of black and minority women in Siddiqui, H. and Patel, M. (2010) Safe and Sane: A Model of Intervention on Domestic Violence and Mental Health, Suicide and Self-harm Amongst Black and Minority Ethnic Women

Case provided by the Centre for Military Justice

Corporal Anne-Marie Ellement reported being raped by two of her colleagues, and her allegations were investigated by the Royal Military Police's Special Investigation Branch before being referred to the Service Prosecuting Authority (SPA). The SPA, however, decided there was insufficient evidence to report the rape.

As a result of reporting the rape, Anne-Marie was harassed, bullied and verbally abused by colleagues, and eventually took her own life. At the inquest, the Coroner refused to hear any evidence about the behaviour of her colleagues and concluded that Anne-Marie had taken her life, without allowing questions to be asked of the Army and the Ministry of Defence (MoD) in the lead up to her death.

The family of Anne-Marie relied on the Human Rights Act to issue judicial review proceedings in the High Court, challenging this decision. As a result, the case was settled, with the Coroner accepting that the inquest should have enabled wider questions to be asked and the case was sent back for a second inquest.

An Article 2 compliant inquest was held, which allowed for investigation of the role of the Army in Anne-Marie's death. The verdict was highly critical and resulted in a number of improvements being made to Army policy towards those reporting sexual trauma and suffering mental ill-health. The Article 2 inquest also resulted in the then Defence Secretary announcing the creation of the first ever Ombudsman for the Armed Forces, and a public apology being issued by the Ministry of Defence.

As a result of positive obligations under the Human Rights Act, proper scrutiny was given to Army policy towards those reporting sexual violence, which resulted in improvements being made.

The family also relied on the positive obligations on the state to conduct an effective independent investigation into a rape allegation, to compel the Ministry of Defence to re-open their late sister's rape case, after she had died. The family argued that because the two soldiers charged with rape had been Royal Military Police, the fact that the original investigation was conducted by the RMP meant that it lacked independence (as well as competence). As a consequence of the challenge, civilian and RAF police were appointed to re-investigate. This led to two former soldiers being charged, and later acquitted, of rape at court martial.

“
Accountability. Justice. Reform. These things do not happen overnight. They are the product of years of hard work by the devastated victims of state abuse – or, where the victim has not survived, their loved ones. And the HRA enabled us to do it. Without it, we would have achieved absolutely nothing. This year is the tenth anniversary of my sister's death. I can think of no worse tribute to her life than this proposal to repeal the Human Rights Act.
”

Sharon Hardy, the sister of the late Cpl Anne-Marie Ellement

g. To take action against abuse in schools

The Human Rights Act is also an important mechanism to protect children impacted by peer-on-peer abuse and sexual violence in schools, with girls disproportionately affected. In June 2021, an Ofsted review concluded that sexual harassment and online sexual abuse remains incredibly prevalent for children and young people in schools, to the extent that it is considered 'commonplace',⁴² with some teachers and leaders underestimating the scale of the problem. The abuse that takes place in schools is highly gendered, mirroring the fact that women are four times as likely as men to report having experienced sexual assault in childhood.⁴³ As a result of the Human Rights Act, governing bodies must ensure that all policies and procedures dealing with how the school addresses sexual harassment and sexual violence are human rights compliant – in terms of taking proactive steps to prevent abuse and adequate steps to respond to and investigate allegations made by pupils.⁴⁴

In instances where peer-on-peer abuse and sexual violence does occur in educational settings or between pupils, the *case of Commissioner of Police of the Metropolis v DSD* (outlined above in relation to the Metropolitan Police and Worboys) can be and has been relied upon to challenge schools and local authority failures to take steps to investigate allegations and incidents, to ensure that they make appropriate referrals and put in place appropriate safeguards.⁴⁵

42 See: <https://www.gov.uk/government/publications/review-of-sexual-abuse-in-schools-and-colleges/review-of-sexual-abuse-in-schools-and-colleges>

43 Office for National Statistics (2016) Abuse during childhood

44 See: <https://www.endviolenceagainstwomen.org.uk/wp-content/uploads/All-Day-Every-Day-Sexual-violence-in-schools-legal-briefing-Sept-2016.pdf>

45 <https://www.leighday.co.uk/latest-updates/news/2021-news/high-court-approves-settlement-for-a-six-year-old-who-was-sexually-assaulted-by-a-classmate/>

**THE HUMAN RIGHTS ACT
ENSURES SCHOOLS TAKE ACTION
AGAINST SEXUAL VIOLENCE**



2. The introduction of additional barriers to making human rights claims and awarding damages

The Bill of Rights seeks to introduce new barriers to making human rights claims, as well as new exclusion criteria for the award of damages to individuals whose human rights are violated.

Clause 15 of the Bill of Rights would introduce a new permission stage for civil claims with a human rights element and judicial review in England and Wales. This would mean that women would need to demonstrate they have suffered (or would suffer) a 'significant disadvantage' before they can proceed with making a human rights claim. This will unfairly shift an additional burden onto women seeking to make a human rights claim. Usually in legal proceedings, the public authority involved will need to disclose evidence and statements to the person making the claim as part of the case, which can assist the individual in outlining the extent of the human rights violation. This proposal however, will also mean that women will have to prove 'significant disadvantage' before they have even received the disclosure from the public authority, putting them in a disadvantaged position.

Neither the word "significant" nor "disadvantage" have been defined and can be interpreted widely. It is feared that this will result in multiple law suits happening to establish what the boundaries of these terms are. This is known as 'satellite litigation'. This will create additional stress for victims and survivors seeking to vindicate their rights, as well as yet more costs for all those involved, including public authorities.

Meanwhile, Clause 18 of the Bill proposes that the courts consider a claimant's 'past conduct' when considering whether to make an award of damages, and how much to award, as well as the potential impact on the authority. This will likely include whether the victim has any previous criminal convictions; even if those convictions arose in the context of being abused and exploited. The implication is that such women and girls are less deserving of justice and protection from the State.

These proposals combined will represent yet more barriers to justice for victims and survivors of VAWG in upholding their rights. It is difficult to imagine how any violation of women's human rights would not constitute a 'significant disadvantage', and we are alarmed by what preventing legitimate human rights violations from proceeding to the courts will mean for women's rights. The cases in this resource highlight how important such claims have been not only for providing justice to individual women, but for improving practice and policy to prevent similar events recurring.

The notion of excluding a person from being awarded damages based on previous conduct is also likely to hit victims and survivors criminalised in the context of abuse. There is ample evidence about the extent to which survivors of VAWG are criminalised (between three quarters and 90% of girls in contact with the youth justice system may have experienced abuse from a family member or someone they trusted, and 63% (aged 16–24) serving sentences in the community have experienced rape or domestic abuse in an intimate partner relationship).⁴⁶ It is a proposal also likely to disproportionately impact Black victims and survivors, who are more likely than other women to be remanded or sentenced to custody, and are 25% more likely than white women to receive a custodial sentence following a conviction.

46 <https://weareagenda.org/wp-content/uploads/2022/03/YWJP-Final-Report.pdf>

Have you
heard of the
human
rights
act?

Yes, it helped
me get support
from my
local
authority



Conclusion

We have created this resource to highlight the significant role that the Human Rights Act plays in protecting the rights of victims and survivors of VAWG, and the risk that the Bill of Rights poses to ending violence against women and girls. This resource has focused on only two key areas of the Bill, however we are of the view that the Bill as a whole risks lowering rights protection for all, hence its label as a Rights Removal Bill.

As highlighted by the cases in this resource, the impact of the HRA is diverse and wide-ranging, and positive obligations in particular ensure that public authorities, including the police, local authorities, schools, and Crown Prosecution Service all take adequate steps to protect victims of all forms of VAWG, including rape, sexual violence, so-called honour-based abuse, stalking and trafficking. In instances where there are significant failures by public authorities, the Human Rights Act is an effective, and often the only, mechanism available to women and girls to obtain justice. In instances in which women are killed by men or take their own lives in contexts of abuse, positive obligations can bring about independent inquests to ensure that lessons are learned and to make recommendations to prevent future deaths. All of these mechanisms are threatened by Clause 5 of the Bill of Rights, putting all women and girls at risk of harm.

The Government has presented this Bill as one that serves the interests of women and girls, stating that they are 'on the side of victims' through advocating for the deportation of murderers and rapists.⁴⁷ We, however, are already witness to the ways in which the Government's existing law and policy towards migrants undermines efforts to address VAWG including through the exclusion of migrant survivors from support, safety and justice (see the **Step Up Migrant Women campaign**). We submit that seeking to erode the human rights of these groups is harmful to our fight to end VAWG, and ultimately harmful to us all. The reality is that the Bill of Rights weakens rights and protections for us all, and this narrative aims to co-opt the VAWG sector into supporting a Bill that we are, in fact, united against.

The government has repeatedly stated its commitment to tackling VAWG, including through its cross-departmental Tackling Violence Against Women and Girls Strategies. This resource has sought to highlight the extent to which the Human Rights Act has been an essential tool to uphold the rights of women and girls to live free from violence and abuse, and to ensure that the state fulfils its duties to protect women and girls from harm. We urge the government to retain the Human Rights Act and scrap the Bill of Rights.

47 See: Col 145 <https://hansard.parliament.uk/commons/2022-03-22/debates/1A6C76DD-035A-4895-9128-38E44B75C1AA/BillOfRightsAndHumanRightsAct1998>



**END
VIOLENCE
AGAINST
WOMEN**

**RIGHTS of
WOMEN**
helping women through the law

CWVJ
entre for Women's Justice

**Southall
Black Sisters**