**Legal Action for Women**

**Submission to Labour’s Access to Justice Commission**

**Please provide us with your name, contact details, and the name of your organisation and your role in it (if applicable)**

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With contributions from the following women’s organisations also based at the Crossroads Women’s Centre:

All African Women’s Group

Black Women’s Rape Action Project

English Collective of Prostitutes

Queer Strike

Single Mothers Self Defence

WinVisible (women with visible and invisible disabilities)

Women Against Rape

Women of Colour in the Global Women’s Strike

**TOPIC 1: The current state of access to justice**

The legal aid budget has been significantly cut in recent years and court and tribunal fees have risen. Court procedures are often prohibitively complex and legal costs for individuals and organisations have risen to the point of being unaffordable for even those of moderate means. The impact on access to justice has been significant. While savings to the legal aid budget have been made, the wider impacts are not being measured and the Government has been criticised for its lack of understanding of the knock-on costs and value for money of its reforms.

The Commission will firstly review the impacts of the reforms so far, looking at their effectiveness, their impact on access to justice and wider areas such as health outcomes or poverty, and the scale of unmet need. The Commission will outline the difference that would be made by a strategy to re-define access to justice as a key public entitlement.

**1. What are your biggest concerns about the state of access to justice? Please provide up to three answers**.

We are concerning ourselves with the impact on women of the legal aid cuts and the particular injustices that women face in the legal system. We believe it is crucial to focus on women and children not as an “additional” issue but in order to re-evaluate the way this issue is described, researched and dealt with. Starting with women and children – two thirds of the population -- changes the prism through which every issue is viewed. First and foremost that means starting with people and with human need rather than money, institutions and the managers of people.

Our main concerns are:

1. **Increasing numbers of women and children are being criminalised**.
2. **Women are disadvantaged in relation to the criminal justice system** because:
3. Women are poorer than men among every sector of society.
4. Sexism is rife within the criminal justice system.
5. Sexism is compounded by racism and Islamaphobia for women of colour and/or Muslim women.
6. Little or no consideration is given to women as the primary carers in society.
7. **Legal aid has been cut from areas of law that particularly affect women** such as housing, child custody, benefits and immigration family life cases.[[1]](#endnote-1)
8. **The law has become more complicated and repressive**, and institutions and professionals have become more bureaucratic and less responsive to someone’s individual circumstances.

**2. Please outline in more detail the way in which your organisation’s work intersects with the question of access to justice, and the way in which current policy enables and undermines access to justice.**

**How our work intersects with the question of access to justice**

**What we do**

Legal Action for Women (LAW) is a free, multiracial, grassroots legal service.  The other organisations, based alongside LAW at the Crossroads Women’s Centre, which have contributed to this submission, work with women on a wide range of legal cases: child custody, domestic violence, rape, actions against the police, housing, benefits, community care, defending women facing criminal charges including for prostitution and protesting, inquests, miscarriages of justice, prisoners’ rights, asylum and immigration cases.

Most women come to our groups for help having been turned away repeatedly by others, including by lawyers. Our approach is that no case is “hopeless” and that there is always something that can be done. We work on the basis of self-help -- that people are central to their own case.

**We combine case work with campaigning** -- recognising that what happens outside court can have as much impact on cases as the legal argument that takes place inside. We have provided practical and other support to many movement legal cases, from the Mangrove Trial in the 1970s to the successful challenge of the legality of Greenham Common Air Force base, to the McLibel trial, to more recently, the trial of G4S guards who killed Jimmy Mubenga.

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| LAW, together with the English Collective of Prostitutes (ECP) and Women Against Rape (WAR), brought [the first successful private prosecution for rape](http://www.independent.co.uk/news/rapist-jailed-after-prostitutes-bring-private-prosecution-1601977.html) in England and Wales. We worked with two sex workers who were raped at knifepoint to bring the case to court after the Crown Prosecution Service (CPS) dropped the charges. The rapist was convicted and sentenced to 14 years on the same evidence that the CPS said was insufficient to prosecute. |

**All the organisations that are submitting information to this inquiry work on the basis of self-help which in practice means we:**

1. **Produce “Self-help Guides”** including on benefits, the prostitution laws, rape and immigration.
2. **Provide self-help legal support.** E.g. the All African Women’s Group (AAWG), a group of women seeking asylum and the right to stay in the UK, hold fortnightly meetings where legal cases are discussed collectively. Women help each other based on the experience of going through similar cases. Some women’s cases get referred to twice weekly work sessions where a combination of women from AAWG, BWRAP, LAW and WAR along with other volunteers, work with women on their case using LAW’s [Self-help Guide Against Detention and Deportation](http://legalactionforwomen.net/wp-content/uploads/2015/03/SHGWebversion.pdf).[[2]](#endnote-2) Women are helped to summarise their case on paper, pull out key issues, understand where their case fits into the legal framework and how their case can be strengthened and pursued. This is useful in all kinds of situations including to find lawyers.
3. **Help women get the best from their lawyers if they have one.**
4. **Provide self-help tools** like short documents explaining particular issues with precedent cases. E.g. using “Vulnerable Witness” Guidance for judges to make the case for a fair hearing.
5. **Pair women up** so those with language and administration skills can
6. help those without(particularly important for those without English as their first language) and where the expertise of women most impacted by the issue can educate others.
7. **Use the power of an organisation** (such as an anti-rape group) to counter prejudice from the authorities.
8. **Campaign.**  If women are suffering a severe injustice or the same issue comes up in a number of cases we will campaign to make this public.

**How current policy undermines access to justice**

**Legal aid cuts** have increased the demand on our organisations’ services, both in volume and complexity. A **s**hrinking pool of legal aid lawyers has made it increasingly difficult to get legal representation. See also following section on impact of LASPO.

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| In a sample of 35 women in AAWG, 32 had cases applying for asylum in the UK. Of them, 16 had fled rape and two were, in addition, victims of trafficking. Seven were also applying on family life grounds (Article 8). Although women are supposed to be able to get legal aid for asylum cases, only 17 women had a legal aid lawyer. Eight were paying for a lawyer and six women had no lawyer at all. One woman wasn’t sure if her legal aid lawyer was still representing her because her solicitor had failed to respond to her phone calls (a common problem). The additional two cases were about housing. As neither was threatened with homelessness, they weren’t entitled to legal aid. But both were in serious situations: one facing a long campaign of racist intimidation from a neighbour; the other, who is a victim of domestic violence and attempted rape, feels unsafe in an unsuitable run-down mixed hostel. |

Both Single Mothers Self Defence (SMSD) and WAR have put out appeals for a lawyer where a woman doesn’t have one and where she is suffering a blatant injustice and can’t possibly represent herself. Typically they start by sending it to five to 10 lawyers they know well and if they can’t help they circulate the information more widely among other networks of lawyers.

In recent years, in immigration cases, WAR generally approaches first a dedicated woman barrister and her colleagues at Garden Court Chambers. A positive advice from a barrister, taking a determined and well-informed view based on current case law, can help establish the merits of someone’s case and encourage a solicitor to come on board. LAW, SMSD and WAR have tried the pro-bono unit but their application process requires so much information about the case that it needs someone with legal knowledge to complete it.

**Austerity cuts to benefits and community resources** have made it more difficult to findindependent, good quality legal help and at the same time are causing injustices that need a legal remedy. Laws and policies such as benefit sanctions and the removal of support from so-called failed asylum seekers, have increased poverty and imposed deliberate destitution. Money for the children of people seeking asylum was cut by 30% last year.[[3]](#endnote-3) In our local area both the Citizens Advice Bureau and Camden Community Law Centre have faced cuts making it almost impossible to find legal help for many legal issues including benefits or housing.[[4]](#endnote-4)

**Private companies** **are increasingly taking on the role of administering the legal system and related services**, from probation services to drug services to housing for ex-prisoners. BWRAP and WAR has worked for years with women inside Yarl’s Wood IRC who have protested rape and sexual abuse by guards employed by the private company, Serco, and its deliberate cover-up of the abuse.[[5]](#endnote-5)

**The voluntary sector has also taken on these roles**, often in partnership with private companies.

The ECP reports that some sex worker outreach projects have taken on monitoring and breaching women for not complying with Engagement and Support Orders. Sex workers fighting legal cases, including those which involve police abuse, have been told that the outreach project cannot help them because it would be a conflict of interest. This pattern of services being co-opted by government contracts, partnerships with private companies or close involvement with the police has undermined organisations’ independence and sometimes corrupted their purpose to the extent that people’s needs are no longer central to the services provided.

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| WAR took on supporting Ms A, a victim of trafficking after she was dropped by Hestia (an anti-trafficking and domestic violence organisation with an annual budget of £21.5million (2014-5) and £11.4 million in reserves). Their contract to help victims of trafficking whose cases are under consideration ends just six days after a negative decision on their application and ten days after a positive one accepting it. Ironically you get more help before the decision than after the government decides that you are a victim. |

**A parallel legal system of offences with a lower evidence threshold, including hearsay evidence, has been introduced.** For example, anti-social behaviour orders (ASBOs) and closure orders rely on police evidence alone, yet a breach of the order carries a prison sentence. Slavery and Trafficking Risk Orders can be imposed before conviction and include penalties such as a ban on overseas travel of up to five years. POCA has financially incentivised the police, CPS and other agencies to bring prosecutions as they profit from money seized.

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| PG was fourteen years old when Camden Council tried to obtain an ASBO against him for riding his bicycle on the pavement.  PG comes from a Black family who had suffered years of racist police harassment and was particularly traumatised by a violent and frightening police raid on his home. A lawyer advised that he should meet with the police to explain himself! Instead BWRAP wrote demanding to know what evidence the police had and the police backed down. |

**Women gaining positions of power has been promoted** as a means of countering the sexism and other discrimination women face. That has not worked. More often a female face is used to cover-up or mystify an injustice.WAR fought a case where a female Home Office official interviewed a woman seeking asylum and specifically told her that she didn’t need to speak about rape because it is traumatic -- the gap in the woman’s account was later used to accuse her of lying.

Justice Alison Russell, the first woman judge to insist on being called “Ms”, took a two-year old baby away from her mother despite admitting that the child was well cared for. Russell’s judgement condemned the mother for her “unorthodox” parenting saying “the attachment which will develop in an infant who sleeps with her mother, spends all day being carried by her mother and is breast-fed on demand raises questions about the long-term effect on the child’.

Women MPs have been at the forefront of efforts to increase the criminalisation of sex work leading to more women getting a criminal record.[[6]](#endnote-6)**[[7]](#endnote-7)**

**More people are being criminalised and legal cases have become more complex and difficult to win.** Between 1997 and 2008, 3,600 new criminal offences were introduced. In 2012, six primary school children were arrested each day.[[8]](#endnote-8) In a [2015 family law case](http://www.familylawweek.co.uk/site.aspx?i=ed143743) Lord Mostyn criticised the lack of legal aid for a custody dispute between two lesbian women and the father of their child saying the women could not be “expected to represent themselves having regard to the factual and legal issues”.  Without legal representation there would be a “gross inequality of arms” and he listed “the increasing number of complex cases where the absence of legal aid has been criticised by the judiciary.”

**The following questions are intended to serve as indications of the kind of response we are looking for, rather than as direct questions requiring an answer. Please feel free to address them or not, as you see fit, in your response. Try and limit your response to under 1000 words.**

**What would your organisation describe as the biggest impact of LASPO?**

The Legal Aid, Sentencing and Punishment of Offenders Act 2012 (LASPO) has exacerbated the power imbalance between women and the state, and between women and men. Legal aid has been cut for:

* **Custody cases** unless the woman can provide evidence that she is a victim of domestic violence. In 2013 half of all women surveyed who had experienced or were experiencing domestic violence did not have the prescribed forms of evidence to access family law legal aid. Of these, 61% took no legal action because they couldn’t get legal aid. [[9]](#endnote-9)
* **Immigration cases** except asylum claims. Legal aid for Immigration work fell from approximately 5,200 new cases in 2012 to practically zero in 2015 following the commencement of LASPO.[[10]](#endnote-10)

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| Of 28 members of AAWG with family/private life cases (Article 8) only three had legal aid for representation and this was only secured after many hours of work by BWRAP and WAR to show their cases had merit. Of the three, one lost her appeal before legal aid was granted but then got legal aid for a lawyer and overturned this judgement. Another was told that she would be granted funding too late for her hearing and went ahead with a private lawyer. She subsequently lost a challenge by the Home Office. If she had had legal aid she would have been able to get expert evidence at the original hearing and stood a better chance of resisting the Home Office appeal. |

* **Housing,** unless homelessness is threatened. Women in unsafe or unsuitable accommodation cannot challenge this. Council housing departments are notoriously intransigent and we find it is practically impossible to get any help for women without the threat of legal action.

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| LAW is helped a woman to press her local authority to fix major repairs. She and her family had been left living in cold and damp accommodation with mouldy ceilings and walls, a rat infestation, and the fabric of their home literally rotting around them. As well as inflicting physical ill-health on Ms M, who has sickle-cell, and her family, these living conditions caused terrible stress and anxiety, pushing relationships to breaking point. |

* **Benefits.** LASPO has made it nearly impossible to get advice and representation for benefits cases. The remaining agencies, e.g. Citizens’ Advice Bureaux, are inundated and have massive waiting lists.

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| *“Vulnerable people with disabilities can’t get the help they need and are crushed by the process of being refused help as they go round three, four or more organisations. Faced with the loss of crucial benefits upon which their lives depend, people suffer horrible anguish and some become suicidal. We are in no doubt that lives have been lost as a result.”* WinVisible (WV)  WV estimates that cases now entail about four times more work for the organisation to “turn round” than they did two years ago, because it is so hard or impossible to get lawyers. About 1/3 of the women that WV is working with on their legal case are at risk of suicide. |

* **Psychiatric and other expert evidence**. BWRAP and WAR provide expert evidence on the impact of rape for women’s asylum claims but it is increasingly hard for lawyers to get legal aid to cover these reports or for psychiatric and country expert reports. Yet women seeking asylum who had an expert report were found to be six times more likely to win at appeal.
* **So-called “borderline” cases** which are judged to have less than a 50% chance of success and which therefore fail the “merits test”**.**[[11]](#endnote-12) Many women find the first refusal of their case is made by a lawyer, the very professional to whom they have turned for help. *“A terrible catch 22 – without a lawyer, women cannot get expert evidence, without expert evidence they are unlikely to have a ‘good’ case. Consequently many survivors of rape and other atrocities are deported back to the violence they fled.”[[12]](#endnote-13)*

Exceptional Cases Funding (ECF) was introduced as a “safety net” for vulnerable people unable to represent themselves. But pressure from grassroots organisations such as BWRAP and WAR and from lawyers exposed its “impenetrable process”[[13]](#endnote-14) and a 1% success rate[[14]](#endnote-15). This led to a judicial review which found it was “unlawfully restrictive”. But applying for ECF remains a Kafka-esque nightmare: only a lawyer can complete the complicated application forms to demonstrate that you need a lawyer!

LASPO has also impacted in other areas of law which we do less work in but have a particular impact on women:

* **Medical negligence.** From 2012-13 to 2013-14 legally aided cases fell from 2,859 to 114. [[15]](#endnote-16) Legal firms are understandably cautious about what “no-win no-fee” cases they will pursue. LAW has never succeeded in referring a case to a reputable firm on this basis.
* **Debt cases**. Legally aided cases fell from 81,792 in 2012-13 to 2,423 in 2013-14[[16]](#endnote-17).
* **Employment law**. Legally aided cases fell from 16,154 in 2012-13 to six in 2013-14, the cuts compounded by a huge increase in employment tribunal fees. The government’s own figures show an 80% drop in the number of women taking employment cases to tribunal.[[17]](#endnote-18)

**2. What difficulties do you, your organisation, your clients or the people you represent face in enforcing their legal rights?**

**Women have less money and less access to resources.** Women are forced into “crimes of poverty” and are punished increasingly harshly. 28% of women’s crimes are financially motivated, compared to 20% of men’s. Although the number of women sentenced for theft offences decreased by 6% between 2009–2014, the number sentenced to custody increased by 20%. [[18]](#endnote-19) Theft offences account for nearly half of (49%) of all custodial sentences given to women. [[19]](#endnote-20)

If people are a hair’s breath away from destitution or ”one pay packet from homelessness” they can’t insulate themselves from the impact of the law. People’s health pays the price for legal aid cuts: *“GPs report a large increase in the number of patients who would have been assisted by advice on benefits, employment, debts and housing. Cuts to legal aid are literally making people sick”.* [[20]](#endnote-21)

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| For those with money, a speedy resolution of a legal problem can often be bought. In immigration cases “*If you can pay an extra £400, your application will be resolved on the day of your appointment.*”[[21]](#endnote-22) |

Our decisions are determined by what our finances allow, or more frequently, prevent. Yet we are judged without any reference to this, as if we are “free agents” to do as we wish. For example, WAR helps many victims of domestic violence trapped in relationships because they don’t have the money to leave or are dependent on their abuser for their right to be in the UK. The resulting backs and forths as they struggle to leave are often labelled as “inconsistencies” and used to claim that victims are lying.

**Our caring responsibilities, and the welfare and lives of those we care for, are ignored.** As carers, we have borne the brunt of “austerity” measures. According to the Fawcett Society’s research [[22]](#endnote-23), 79% of the cuts have fallen on women: “Women, particularly mothers, are more likely to be affected by financial hardship in the home because they act as ‘shock absorbers’, shielding their children and families from the impact of financial hardship.

Women suffer a double hit – targeted for austerity cuts and deprived by our care for loved ones of the escape routes open to others, e.g. bad housing has a greater impact if you have children but it’s harder to move away from schools, etc.

Mothers constitute over 90% of single adult families who are amongst the poorest in society with nearly half (42%) living in poverty after housing costs are taken into account[[23]](#endnote-24). Legal Action for Women’s forthcoming dossier “Suffer the Little Children” [[24]](#endnote-25) documents how poverty is conflated with neglect and used to take children from their mothers and put them in institutionalised care. No account is taken of the harm caused by care. Thousands of children have suffered rape and other abuse in care.[[25]](#endnote-26) Another indication of the neglect of children in care is that 61% of girls in custody are “looked after” children. [[26]](#endnote-27)

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| SMSD is fighting a case with a woman whose baby was taken from her by the court. SMSD commented *“the Children’s Act rightly makes children’s welfare central but then the way this is used by Social Services and in court is to completely disconnect a child’s welfare from the essential and life-giving care of its mother. Legal representation is essential to fight this, and expert reports which can present the evidence about the harm inflicted on children by separation from their mother or other primary care-giver. But we couldn’t find any lawyer ready to pursue Ms G’s legal case further.”* |

Motherhood is not given proper consideration in sentencing.[[27]](#endnote-28) Six out of ten women in prison have dependent children. [[28]](#endnote-29) 17,000 children a year are separated from their mothers by imprisonment. [[29]](#endnote-30) Two of the women that WAR are working with got sent to prison for “perverting the course of justice” for making a so-called false claim of rape, despite one being pregnant and one having a small breastfeeding baby.

**Because of sexism, the suffering and the injustices that we face are seen as less serious.** Men unjustly imprisoned are rightly seen as victims of miscarriages of justice. Women, whose children are snatched from them despite no evidence of harm, are not. Rape by soldiers is not seen as torture or persecution but “simple, dreadful lust”, and so not as grounds for asylum. [[30]](#endnote-31)

**The law is often framed or interpreted in a sexist way.**  No matter the violence that a man has inflicted on the mother of his children, the presumption is in his favour in the family courts. Women’s Aid reports:

“Two children were killed by the father they lived with (arranged through the family court). . . One report notes that social workers had concerns about the mother’s *“…abuse of alcohol and her choice of partners”*. In contrast, “*After father who came out of prison [for offences including violence against the mother] he appears to have quickly established himself in the minds of professionals as a reformed character and the professional memory of his previous behaviour as witnessed by his criminal record was not given sufficient weight…””[[31]](#endnote-32)*

**The violence we suffer is belittled.** Two to three women are killed a week by a partner or ex-partner. Most of the women who approach WAR have had difficulties getting the police to act on their reports of violent men and provide them with protection.

Domestic violence is now the main reason that children are taken from their mother. *“There has been an explosion in calls from families needing advice because their children are subject to child protection inquiries by social workers due to domestic abuse. The number rose by over 1,100% between 2007/8 and 2012/13 and is continuing to go through the roof.”* [[32]](#endnote-33)

In February this year the Court of Appeal found that rules were too restrictive about the evidence of domestic violence that was needed for victims to be entitled to legal aid for cases in the Family Courts. But although the period within which the evidence can be provided has been extended from the last two to the last five years, the nature of the evidence required hasn’t changed, leaving many victims unrepresented.

**Women are more likely to end up in court for crimes of poverty** and be imprisoned for non-violent crime**.**  One indication of this is the numbers of women in prison – 2000 more than 20 years ago.[[33]](#endnote-34) Criminalisation has increased in areas that particularly target women, for example, crimes of poverty such as low value theft [[34]](#endnote-35), benefit fraud, non-payment of council tax, prostitution, immigration related offenses such as working without papers, as well as offenses such as perverting the course of justice for so-called false allegations of rape.

28% of women offenders’ crimes are financially motivated, compared to 20% of men.[[35]](#endnote-36) 81% of women entering prison for a custodial sentence have been convicted of non-violent offences, compared to 71% of men. [[36]](#endnote-37) More women are sent to prison to serve a sentence for theft and handling than for violence against the person, robbery, sexual offences, burglary, fraud and forgery, drugs, and motoring offences combined.[[37]](#endnote-38)

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| The ECP works with women who are defending themselves against criminal charges for working on the street (loitering and soliciting) and in premises with other women for safety (brothel-keeping and controlling prostitution for gain). Ms M was arrested three times in quick succession for soliciting. She is supporting her child and other family members back in Romania and is trying to save to go to college. Each time she is arrested she is fined £250. [On some nights she is just working to pay her fines](http://prostitutescollective.net/2015/11/19/urgent-action-alert-in-court-tomorrow-write-to-demand-loitering-charges-are-dropped/). |

**We are less likely to be believed.** WAR has highlighted that when women report rape instead of them being believed and their attacker brought to justice, they increasingly find themselves accused of perverting the course of justice, prosecuted, and even imprisoned for “false allegations”. Many women say it feels like the final nail in the coffin of how rape is dealt and [many are deterred from reporting.](http://womenagainstrape.net/inthemedia/turning-victims-criminals-article-socialist-lawyer)

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| [Ms Layla Ibrahim reported rape by two strangers in 2009.](http://www.theguardian.com/law/2011/aug/12/layla-jailed-after-reporting-sexual-assault)  Within a week she found herself subjected to numerous questionings by the police and realised that instead of being treated as a victim, she was becoming the suspect. She wasn’t entitled to legal aid until charged with perverting the course of justice – too late to benefit from the presence of a solicitor in the preceding interviews, some of the contents of which were used to successfully prosecute her and send her to prison. WAR adds, *“The Saville Inquiry, media coverage and public pronouncements by the police appear to encourage victims to come forward and expect that they will be treated sympathetically and justly. The reality is far from the truth. We find ourselves in the position of having to warn some women that they may actually be putting themselves at risk of imprisonment by reporting rape, e.g. if they have reported rape previously, if the police are being threatening and indicating they will not take their reports seriously, if they have suffered from mental illness, or if they have taken matters into their own hands and pursued their attacker. Our [Self-Help Guide](http://womenagainstrape.net/resource/self-help-guide-survivors-rape-and-sexual-assault) prepares women for how to deal with the many obstacles they will face in reporting rape.”* |

**Sexism is compounded by other discrimination based on:**

**Racism**

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| Ms Njie, a Black single mother, was thrown to the floor and held down so that she was struggling to breathe during a violent and frightening police raid on her and her children’s home. She was then accused of racially aggravated assault on the pretext that one of the police officers involved was a man of colour. The whole family was traumatised by the experience. Women of Colour in the Global Women’s Strike supported Ms Njie, helped her find a legal aid lawyer and fight the charges, which were dropped. [[38]](#endnote-39) |

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| When Faiza Ahmed reported an attempted rape to the police, they first sent round two white male police officers rather than a specialist woman officer trained in responding to victims in a sensitive manner. They demanded intimate details of what had happened, which made Ms Ahmed angry and upset, having had numerous bad experiences of the police previously. The officers reported that she was “*unco-operative*” without any consideration of how traumatised she was. As a result, the visit by the specialist officer was cancelled that day to allow Ms Ahmed time “*to calm down*”.  A catalogue of neglect followed and a day later Ms Ahmed killed herself. Her brother said that he had no doubt that if she had been a white English woman, his sister would still have been alive. The inquest found three different agencies, including the police and ambulance service, contributed to Ms Ahmed’s death and ordered each to change their procedures.[[39]](#endnote-40) |

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| Ms Bilan Mohamed called the police after a racist assault by her neighbour, which resulted in a fractured jaw. But the officers took the racist’s side and assumed, with no evidence and despite what she said, that her injuries were caused by her husband. When her husband returned, he was arrested. BWRAP insisted the police return and take a full statement from Ms Mohamed, which resulted in a successful prosecution and imprisonment of the perpetrator. BWRAP commented: *“We have no doubt that Islamaphobia played a part in the way she was treated by the police.”* |

**Disability**

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| Ms J is deaf and, without help, couldn’t call the police after a traffic accident. Denied legal aid, she was expected to go to court without a lawyer and any Sign Language interpretation. WV tried unsuccessfully to find a lawyer to help explain why she had had to “leave the scene of an accident without reporting”. And although they did secure a promise that the police would organise interpretation for her hearing, none showed up and the hearing had to be adjourned. |

**Bureaucracy.** Women face a mountain of faceless and uncaring bureaucratic procedures in trying to enforce their legal rights. Officials refuse to be flexible and take into consideration the individual situation, responding robotically – often to the point of cruel absurdity. Procedures are not designed to assist but make it even harder to pursue your rights.

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| Ms V is being pursued for a debt of £350 for court fees for a failed application for Judicial Review. With LAW’s help she has written to the court to explain that she is completely destitute with no income at all, that she only took the case because her lawyer assured her that it had merit and that she is traumatised due to years of horrific domestic violence. The court refused to respond to any of these issues and is enforcing the debt. |

**What difficulties do your organisations, your clients or the people you represent face in navigating bureaucratic legal procedures?**

**Language**

Immigrant women are less likely to speak English as a result of the discrimination they faced in provision of education. ESOL classes have been cut and women often have to rely on volunteer translation, including family members. Among other problems this makes reporting rape even more difficult.

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| Ms M attended a self-help session organised by LAW to get help with writing a summary of her case. But her difficulties with English meant that it was very difficult to pin down details which on the face of it appear simple. For example, it took 15 minutes to establish the ages of her children. |

**Forms**

Forms are often incredibly complex and difficult even for the trained lay person to complete.

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| Ms D struggled to understand some of the legal language in the custody form she had to fill in including knowing who was the “appellant” and “respondent”. SMSD found some help for her and Ms D submitted the forms but now the court is complaining that she wrongly gave her own address as that of the respondent and so received papers which should have gone to the children’s father. |

**Lack of help**

Assistance and guidance to help people is often not made available, e.g. in the many determinations WAR has seen on asylum and immigration appeals they have rarely seen reference to guidance issued to judges on their responsibilities towards vulnerable witnesses[[40]](#endnote-41).

**Cuts in community support**

Resources that used to be available – help with filling in forms, or making a simple and quick phone call that might sort something out which has caused months of worry, or just a quiet seat in the library to read or research your case – have been devastated by the cuts.

**Increased criminalisation**

ASBOs and other civil orders constitute a parallel legal system where the first offence has a low burden of proof and is often based on hearsay evidence. POCA is an incentive for police, CPS and other agencies to bring prosecutions because they profit from any income or assets seized.

**How have court and tribunal fees affected the capacity to enforce legal rights of your organisation, or the people you represent?**

Fees for applications and court proceedings have massively increased, including for Family Reunion cases and Judicial Review.From 21 March the fee for some types of Judicial Review applications have increased from £80 to £255. [[41]](#endnote-42) A number of women have reported to LAW that they have been forced into selling sex to pay for a hearing.

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| Ms T sought the help of Queer Strike because she was terrified of being sent back to Uganda where her girlfriend had been killed and where she had been beaten when their lesbian relationship had been discovered. Disbelieved and denied legal aid under the merits test to be able to submit a stronger asylum claim with more evidence to corroborate her account, the only possibility open to Ms T was to apply for Judicial Review of the refusal to reconsider her original application. She sold sex to pay for the fees and fell pregnant as a result, leaving her distraught that this would be used by the Home Office as further evidence to disbelieve her sexuality. |

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| Ms B, a member of AAWG who fled rape in DRC, was denied the right to automatic family reunion under the Refugee Convention because her case was instead settled in the legacy programme. For two years she tried to raise the money from a job in a care home to pay for fees and legal representation for an Article 8 family life application. Eventually BWRAP was able to find solicitors who kindly agreed to assist Ms B pro bono and, when she could only afford the huge visa fees for one child, fundraised for the second child’s fees. She got the applications submitted just before the fees were raised by a further 25% in March, to £1,195 for each child. |

**What, as a user of the system, are you or your clients’ biggest frustrations?**

**In addition to the issues raised above, other frustrations include:**

**Inequality in arms between women and the state.**

Whilst women are deprived of even the most basic help, those they face in court face no such “austerity measures” pursuing often ridiculous cases at the cost of thousands of pounds to the tax payer.

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| A member of AAWG, Ms Noela Claye won her Article 8 family/private life appeal to stay in the UK. But the Home Office (HO) appealed the decision despite knowing that Ms Claye was a victim of rape in Sierra Leone. Ms Claye faced having to go through another court hearing and describe again the horrific circumstances of the rape. The HO application for appeal dropped any reference to the rape she suffered and failed to address her needs for support upon which the Judge had allowed her appeal.    Ms Claye’s family had run out of money to pay a lawyer to oppose the HO appeal, so she had to apply for Exceptional Case Funding (ECF). But the Legal Aid Agency refused her because she did not have a lawyer to complete the form explaining the merits of her case -- even though she had already won her case at appeal!  [Ms Claye spoke out publicly about being denied legal aid](http://womenagainstrape.net/content/latest-news-noela-claye), including at a number of demonstrations by “Justice Alliance”, of which the AAWG and WAR are active members.  Ms Claye was eventually granted legal aid, not for the HO appeal but for a judicial review of the refusal of ECF for that appeal! She had to ask for another adjournment of the HO appeal, so that she could continue the battle for legal aid. But the judge at the Case Management Review refused. Instead he admonished the HO Presenting Officer for not knowing her case was “all over the internet”, found that the HO appeal had no merit and threw it out! |

**The government’s recklessness about breaking the law.**

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| The AAWG, which includes many ex-detainees, celebrated alongside women in Yarl’s Wood when the “Detained Fast Track” (DFT) was ruled “inherently unfair” in the courts. Many women have been deterred from making asylum claims because they knew they would not get a fair hearing in the DFT and we note an increase in asylum applications after it was suspended. [[42]](#endnote-43)  The Tribunal, which so often rubber-stamped HO refusals in the DFT [[43]](#endnote-44), was found to have acted unlawfully by determining appeals in the DFT in which women (frequently unrepresented courtesy of the “merits test”) were put at such a severe disadvantage.[[44]](#endnote-45) Women’s brave protests in Yarl’s Wood have spearheaded the public outcry against the DFT, which no doubt played a big part in the recent decision by the Tribunal Procedure Committee to reject the Government’s proposals to reintroduce the scheme because they failed to tackle the injustices it imposed [[45]](#endnote-46). |

**SUMMARY**: Women are disadvantaged in relation to the criminal justice system because: women are poorer than men in every sector of society; austerity and the legal aid cuts have disproportionately targeted women, the law is framed and interpreted in a sexist way; criminalisation is increasing particularly of women. Any review of the justice system has to take these factors into account.

NB points above appear to only relate to criminal justice system – do we want to make our point here again about looking at the issue through the prism of women??

1. The government’s own equality impact statement acknowledged that the cuts would have a disproportionate impact on women, ethnic minorities and people with disabilities but it refused to accept that they were discriminatory: ***“****Legal aid per se involves poor people, so if we are going to reduce costs it will impact on poor people”*. Jonathan Djanogly in the House of Commons, 17 May 2011 [↑](#endnote-ref-1)
2. http://legalactionforwomen.net/wp-content/uploads/2015/03/SHGWebversion.pdf [↑](#endnote-ref-2)
3. http://www.globalwomenstrike.net/content/childrens-commissioners-must-oppose-policies-aimed-starving-children [↑](#endnote-ref-3)
4. Eleven law centres have been forced to close since 2013. And on average, law centres have lost 40% of their income (including a 60% cut to their legal aid revenue). [↑](#endnote-ref-4)
5. [See “Rape and Sexual Abuse in Yarl’s Wood 2005 – 20015”](http://www.womenagainstrape.net/sites/default/files/dossier_rape_in_yarls_woodfinaljuly15.pdf) https://www.theguardian.com/uk-news/2015/jun/15/yarls-wood-report-calling-for-closure-decade-abuse-complaints [↑](#endnote-ref-5)
6. Fiona Mactaggart led the campaign to criminalise men who buy sex. https://en.wikipedia.org/wiki/Fiona\_Mactaggart [↑](#endnote-ref-6)
7. In 2014-15, prosecutions for brothel-keeping (a charge most frequently used against women working together for safety) doubled compared to the previous year.

   <http://www.theyworkforyou.com/whall/?id=2015-10-13a.58.1&s=prostitution#g61.0>  [↑](#endnote-ref-7)
8. http://www.independent.co.uk/news/uk/crime/six-primary-school-aged-children-arrested-each-day-8374357.html [↑](#endnote-ref-8)
9. “*Evidencing domestic violence: a barrier to family law legal aid*”, Rights of Women, Women’s Aid and Welsh Women’s Aid. [↑](#endnote-ref-9)
10. <http://thejusticegap.com/2016/04/carries-cost-three-years-laspo-legal-aid-cuts/> [↑](#endnote-ref-10)
11. A determined battle in the courts has resulted in these now being amended so that now those judged to have

    a borderline or poor prospect of success can be granted legal aid if without legal aid there would be, or a risk

    of, a breach of your human rights.  No doubt this will pose another “Catch 22” where you will need a lawyer to

    demonstrate this [↑](#endnote-ref-12)
12. Submission to the All Party Parliamentary Group on Migrants & the All Party Parliamentary Group on

    Refugees: Inquiry into Immigration Detention, 1 October 2014 from Black Women's Rape Action Project and

    Women Against Rape. [↑](#endnote-ref-13)
13. http://www.lag.org.uk/magazine/2013/12/exceptional-funding-'a-human-rights-safety-net'.aspx [↑](#endnote-ref-14)
14. http://www.publiclawproject.org.uk/data/resources/10/exceptional\_funding\_blog.pdf [↑](#endnote-ref-15)
15. [“Legal aid cuts threaten very democracy](file:///C:\Users\Niki\AppData\Local\Microsoft\Windows\Temporary%20Internet%20Files\Content.Outlook\GOFTOIQO\.http:\www.theguardian.com\law\2015\may\01\legal-aid-cuts-threaten-very-democracy%3fCMP=share_btn_link)”, Guardian, 1 May 2015. [↑](#endnote-ref-16)
16. Ibid. [↑](#endnote-ref-17)
17. Ibid. [↑](#endnote-ref-18)
18. “*Prison: the Facts*”. Bromley Report Autumn 2014. Prison Reform Trust. [↑](#endnote-ref-19)
19. “*Prison: the Facts*”. Bromley Report Autumn 2015. Prison Reform Trust. [↑](#endnote-ref-20)
20. Open letter signed by over 100 judges, peers, doctors and lawyers, Guardian, 1 May 2015. [↑](#endnote-ref-21)
21. # “[The real impact of the legal aid cuts](http://www.newstatesman.com/politics/uk/2016/03/real-impact-legal-aid-cuts)”, New Statesman, 14 March 2016.

    [↑](#endnote-ref-22)
22. “Where’s the benefit? An Independent Inquiry into Women and Job Seekers Allowance” [↑](#endnote-ref-23)
23. Figures for 2012/13 published in 2014 in the Office for National Statistics “*Households Below Average*

    *Income”* report. [↑](#endnote-ref-24)
24. *“Suffer the Little Children”,* ibid. [↑](#endnote-ref-25)
25. https://www.theguardian.com/uk/2012/apr/13/abuse-teenage-boys-detention-centre-crime [↑](#endnote-ref-26)
26. *“Prison: the Facts*”. Bromley Report, Summer 2014. Prison Reform Trust. [↑](#endnote-ref-27)
27. http://howardleague.org/wp-content/uploads/2016/03/mitigating-motherhood.pdf [↑](#endnote-ref-28)
28. National Institute for Health Research, School for Primary Care Research [↑](#endnote-ref-29)
29. “Mothers and imprisonment: imprisonment separates around 17,000 children a year from their mothers”,

    Independent, 17 September 2012. [↑](#endnote-ref-30)
30. *“Misjudging Rape*”, ibid. [↑](#endnote-ref-31)
31. “*Nineteen Child Homicides*”, January 2016 [↑](#endnote-ref-32)
32. Family Rights Group, ITV Report on line, 15 January 2014 [↑](#endnote-ref-33)
33. “*Prison: the Facts*”. Bromley Report Autumn 2015. Prison Reform Trust. [↑](#endnote-ref-34)
34. 41% of women in prison are there for theft and handling stolen goods—a 5% increase in convictions in 2015

    compared to the previous year. [↑](#endnote-ref-35)
35. “Women in Prison” Prison Reform Trust, 2012 [↑](#endnote-ref-36)
36. In the last quarter of 2014, Prison Reform Trust [↑](#endnote-ref-37)
37. Prison: the Facts, Bromley Report Autumn 2015 ibid [↑](#endnote-ref-38)
38. “Botched police raid. ‘My eighteen months of hell after race charge’” Camden New Journal, 19 March

    2014. [↑](#endnote-ref-39)
39. *“On Thursday, Faiza Ahmed made a cry for help. On Friday, she made a second, and a third. And then it*

    *was too late . . .”* Guardian Weekend, 6 February 2016. [↑](#endnote-ref-40)
40. Joint Presidential Guidance Note No. 2, 2010: “*Child, vulnerable adult and sensitive witness guidance*”. [↑](#endnote-ref-41)
41. https://www.freemovement.org.uk/increases-to-immigration-judicial-review-fees-from-21-march-2016/ [↑](#endnote-ref-42)
42. 32,414 in October to December 2015, the highest number of applications since 2004 (33,960) according to

    government statistics. [↑](#endnote-ref-43)
43. The success rate for appeals in the DFT was just 1%. Legal Action for Women’s “Bleak House for Our

    Times”, an investigation into human rights abuses in Yarls Wood Immigration Removal Centre, 2007. [↑](#endnote-ref-44)
44. The Lord Chancellor v Detention Action [2015] EWCA Civ 840. [↑](#endnote-ref-45)
45. ## “[When will there be a new Detained Fast Track for asylum seekers?](https://www.freemovement.org.uk/when-will-there-be-a-new-detained-fast-track-for-asylum-seekers/)” Free Movement Blog, 24 May 2016

    [↑](#endnote-ref-46)