



**Violence against women and girls:  
Protecting women's human rights  
and holding the state to account**

**Report by Nogah Ofer**

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**October 2017**

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## **About the briefing authors**

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## **About Southall Black Sisters**

SBS is one of the UK's leading front line advocacy and campaigning organisations for black and minority (BME) women. Set up in 1979, we work with some of the most marginalised and disadvantaged women in society. The bulk of our work is directed at assisting BME women and children - the overwhelming victims of domestic and other forms of gender-related violence – obtain effective protection and assert their fundamental human rights to equality and freedom.

Our work by its very nature addresses the multiple and simultaneous experience of race, gender and other forms of discrimination faced by BME women and highlights flaws in community and state responses to their needs. SBS has been in the forefront of some of the most significant campaigns and reforms on laws and policies on gender-based violence within BME communities. Although based in West London, we have a national reach.

## **About the End Violence Against Women Coalition**

EVAW is a leading coalition of specialist women's support services, researchers, activists, survivors and NGOs working to end violence against women and girls in all its forms. Established in 2005, we campaign for every level of government to adopt better, more joined up approaches to ending and preventing violence against women and girls, and we challenge the wider cultural attitudes that tolerate and condone this abuse.

The EVAW Coalition is a company limited by guarantee (no. 7317881) and a registered charity (no. 1161132)

## **Acknowledgements**

With thanks to the women whose stories appear in this report and to the London Black Women's Project and Carolynn Gallwey of Bhatt Murphy solicitors for their assistance with case studies.

## Introduction

There has never been a more critical time to examine the role of the British State - the police and other parts of law enforcement - and its response to violence against women and girls (VAWG). Is it reasonable to expect the State to adequately protect all women and girls from all forms of gender-based violence? If so, how is that protection to be achieved and what is the role of human rights law in achieving it?

This report has been commissioned by the End Violence Against Women Coalition (EVAW) and Southall Black Sisters (SBS) to highlight the role of human rights in tackling the day to day operational police failures that women and girls continue to experience when reporting gender-based violence. In the UK there is law and Government policy which should protect women and girls but too often these are not implemented, for example when the police fail to take a rape report seriously and do not investigate, leaving the victim and other women at risk. And while we have seen improvements in policing, austerity and other policy measures have widened the gap between aspiration and reality. There are signs that the gains that have been made are being reversed.

- In 2016 there were 1.2 million female victims of domestic violence<sup>1</sup>;
- The number of women killed by a current or ex-partner and other close relatives remains stubbornly high at two every week<sup>2</sup>;
- The continued under-reporting of violence against women means that only 15% of serious sexual offences and 21% of partner abuse incidents are reported to the police<sup>3</sup>;
- Under-reporting amongst women in the Black and Minority Ethnic (BME) and more marginalised communities remains a serious problem. BME women suffer disproportionately from violence, and face multiple barriers to reporting (including heightened forms of shame, stigma, cultural and religious constraints, racism, immigration insecurities and lack of awareness of their rights).
- More than 100,000 women and girls in the UK are at risk of and living with the consequences of female genital mutilation, forced marriage and so called 'honour-based' violence;
- Inquiries into child sexual abuse repeatedly reveal failures at every level of the State to prevent or protect girls from abuse;

- Girls in schools in the UK are experiencing high levels of sexual violence and harassment, as alarmingly evidenced by Parliament's Women and Equalities Select Committee<sup>4</sup>;
- Hard won specialist services are closing in the wake of radical changes to commissioning and funding; women and girls are falling through the safety gaps, being turned away from refuges, waiting ever longer for Rape Crisis support. Some of the services which might once have provided support no longer exist or are under threat of closure;
- Legal aid has shrunk and abused women are often unable to obtain legal advice and representation which has meant that some women find themselves face to face with their perpetrators in courts.

It is in this context of continued high levels of violence against women and girls, persistently low levels of conviction and uncertainty about support and advocacy, that women and girls rely on the criminal justice system. It is critical that when they do engage with the criminal process, it operates properly and does not let them down. They need to feel confident that their reports will be taken seriously and that they will be properly protected.

### **Why human rights matter**

Our experience shows that despite improvements in policing and a better understanding of the dynamics that underpin violence against women and girls<sup>5</sup>, an institutional culture of disbelief and trivialisation of VAWG continues to pervade the system and is proving difficult to shift<sup>6</sup>. Time and again, we see the consequences of State failures to respond adequately to abused women and girls who are often re-traumatised when denied access to protection and justice. As the stories in this report highlight, widespread routine police failures can and do lead to serious harm and even fatalities. The problem is compounded by an inadequate police complaints system that make it impossible to hold the police to account. A doctor or lawyer can be sued for negligence, but the police cannot. The Human Rights Act (HRA) has been used to bring cases against individual police forces when they have failed in domestic violence murder cases, rape, trafficking and so-called 'honour based' violence cases, requiring them to change the way they work in response to VAWG.

This is why the Human Rights Act matters. It is all we have that can address police failure to adequately investigate and respond to clear risks to women who suffer violence. It is the only tool that can compel the police to take action and responsibility for their failures and to improve their everyday policy and practice in response to abuse.

The police should not be immune from scrutiny before the courts. The Rotherham child abuse scandal and the Hillsborough disaster are stark

reminders of why it is vital that police conduct be held up to scrutiny. This includes police conduct in investigating VAWG - a matter of public and not just private interest.

Everyone who cares about human rights must now look behind the Government's rhetoric on violence against women and human rights. If women's human rights are watered down, it will embed a culture of institutional tolerance or indifference to gender-based violence. Now is the time to defend women's rights as human rights.

## **Policing violence against women and girls**

The case of John Worboys, known as the 'black cab rapist' brings the importance of human rights into sharp relief. Worboys committed more than 100 rapes and sexual assaults on women in his cab between 2002 and 2008. Over these years he repeatedly used identical methods to persuade female passengers to have a drink, drug them with sedative medication and sexually assault them. Despite a number of women reporting him to the police, he was not apprehended<sup>7</sup>.

The two women at the heart of the case are known as DSD, who was raped by Worboys in 2003 and NBV, who was raped in 2007. When the women reported the rapes the police failed to take them seriously or act effectively upon their reports. It was not until 2008 that the Metropolitan Police carried out routine computer checks which led to Worboys being identified and arrested eight days later. If the police had acted sooner, Worboys would have been caught years earlier and many women would not have been raped.

DSD's case was closed by the police in 2004 and no links were made between her and the other women reporting offences by Worboys. NBV's case was closed after just three months during which officers interviewed Worboys and accepted his account at face value whilst regarding her behaviour as inconsistent.

DSD and NBV brought a claim against the Metropolitan Police under the HRA alleging a breach of their rights under Article 3 of the European Convention on Human Rights (The Convention). They alleged both inadequacies in the way in which their own reports of rape were investigated and generally in the systems in place within the Metropolitan Police for investigating rape.

The High Court found a large number of failings by the Metropolitan Police including:

At the systemic level:

- failure to provide proper training
- failure to supervise and manage properly
- inappropriate "clear-up" pressures
- failure to consult the Crown Prosecution Service
- failure to use available intelligence sources
- failure to have proper systems in place to ensure victim confidence
- failure to allocate adequate resources

In the individual cases of DSD and NBV:

- failure to believe DSD or take her complaint seriously

- failure at front desk to record names, addresses and vehicle details
- failure to interview a vital witness
- failure to collect CCTV evidence
- failure to record NBV's report as a serious sexual offence
- failure to conduct a search of Worboys' home
- inadequate interviewing of Worboys and failure to re-interview him

The High Court concluded that these failings amounted to a clear breach of the women's human rights.

The Metropolitan Police tried unsuccessfully to overturn this finding in the Court of Appeal and are now attempting to do so again in the Supreme Court. They want to deny their responsibility towards DSD and NBV and to establish a legal principle which means that they are not legally obliged to investigate adequately and effectively in all such cases.

The case was heard in the Supreme Court from 13 March. The Metropolitan Police and the Home Office challenged the Court of Appeal's ruling that human rights laws impose legal obligations on police officers to take action to investigate reports of sexual or domestic violence. If successful this would remove the only legal tool women have to hold the police to account.

## **Police failings – from routine to catastrophic**

SBS and EVAW's experience is that police failures when handling violence against women and girls are routine.

**Harsha's**<sup>8</sup> husband assaulted her when he found out she was pregnant, causing a miscarriage. Officers failed to take photographs of her injuries or obtain photographs taken by a support organisation, failed to take statements from friends she had approached for help, or to obtain medical evidence from her GP. Harsha was informed that her husband had been arrested but released for 'lack of evidence' and that the case had been closed.

16 year old **Florence** reported to her school that her ex-boyfriend had forced her to perform oral sex in the park. In an informal interview at school, without an adult present, police officers asked her if she had been exaggerating, as a teacher had told them that she was a "flirtatious" person. They also questioned her at length about why she had been in the park after 9.30pm. Florence felt deep feelings of shame. Feeling blamed and unsupported she decided not to pursue the case.



**Ratna** and her adult daughter reported living in fear from Gopal, Ratna's adult son who was addicted to drugs. Ratna had to barricade herself in her bedroom after Gopal turned violent during an argument, hit her on the legs with a stick, threatened to stab and kill her and his sisters and burn the house down, and tried to smash her car with a recycling bin. He was only charged with criminal damage, not with domestic violence offences. He was found guilty and immediately breached a restraining order so that Ratna and her daughter had to flee their home.

After **Mishal** had separated from her controlling and jealous partner, he turned up at her work and she agreed to go into his car to avoid a scene. He drove her to an isolated area, assaulted her, snatched her handbag and called her a "whore". He refused to stop the car to let her out so she slapped him. He called the police and they were both arrested despite the fact that she had visible bruises and a cut to her lip. She admitted the slap in self-defense but was charged with assault and put on police bail. The charges were eventually dropped over three months later.

**Roxanne** was a student who reported disclosed a rape by her ex-boyfriend Paul to her brother and step-father, who called the police. Another student at the college, Zoe, told her that she had also been raped by Paul. Zoe reported to the police but was not interviewed for three months and the brother and step-father were not interviewed for five. No bail conditions were placed on Paul and he would attend a pub that Roxanne and Zoe frequented and intimidate them. Whenever Roxanne tried to complain about the delays she was told that her liaison officer was busy and the police had a lot of cases to deal with.

These cases illustrate the routine, everyday failures by the police in investigating domestic and sexual violence: neglecting to collect basic evidence; disbelief; indifference towards victims. These mirror the police behaviours which ultimately led to the spectacular failings in the Rotherham child abuse scandal, and show how the State can fail to protect the most vulnerable girls. The Independent Inquiry (2014)<sup>9</sup> found that:

*It is hard to describe the appalling nature of the abuse that child victims suffered. They were raped by multiple perpetrators, trafficked to other towns and cities in the north of England, abducted, beaten, and intimidated. There were examples of children who had been doused in petrol and threatened with being set alight, threatened with guns, made to witness brutally violent rapes and threatened they would be next if they told anyone. Girls as young*

*as 11 were raped by large numbers of male perpetrators...*

*At an operational level, the Police gave no priority to CSE [child sexual exploitation], regarding many child victims with contempt and failing to act on their abuse as a crime. Further stark evidence came in 2002, 2003 and 2006 with three reports known to the Police and the Council, which could not have been clearer in their description of the situation in Rotherham. The first of these reports was effectively suppressed because some senior officers disbelieved the data it contained. This had led to suggestions of cover-up. The other two reports set out the links between child sexual exploitation and drugs, guns and criminality in the Borough. These reports were ignored and no action was taken to deal with the issues that were identified in them.*

The inquiry also found that child sexual abuse was not just a problem from the past. Shortly before publication the caseload of the specialist child sexual exploitation team was 51 and in the previous year the police had received 157 reports concerning child sexual exploitation in Rotherham. Any suggestion that women and girls require fewer, or even no legal protections is an abrogation of responsibility towards children suffering the most extreme crimes.

## **Government policy on violence against women and girls**

The attempt to remove the ability of the women in the Worboys case to challenge state bodies is at odds with the high priority the Government claims to give the fight against VAWG. The Government's public commitment to the Violence Against Women and Girls Strategy suggests strong support for enforceable legal rights. When as Home Secretary Theresa May launched a *Call to End Violence Against Women and Girls* in 2010<sup>10</sup> she introduced it by stating:

*The ambition of this government is to end violence against women and girls. This is not a short-term task, but a long-term goal, the achievement of which will not be easy. But it is essential to make clear that however much progress we make in tackling this problem, no level of violence against women and girls is acceptable in modern Britain or anywhere else in the world.*

*No woman should have to live in fear of violence. No man should think it acceptable to perpetrate violence against women. No child*

*should grow up in a home where violence is an everyday occurrence. Working together we can make that a reality.*

The document sets out a strategic vision across Government departments, has been followed by action plans and progress reviews and is currently a Government Strategy for 2016 to 2020<sup>11</sup>.

## **Beyond the rhetoric - enforcing human rights**

Despite the policies, strategies and reviews aimed at ending VAWG, implementation remains a major hurdle. There are very real concerns about patchy and, in some areas, unacceptably poor policing of VAWG. This is how the HM Inspectorate of Constabulary report of 2014 puts it:

*The overall police response to victims of domestic abuse is not good enough. This is despite considerable improvements in the service over the last decade, and the commitment and dedication of many able police officers and police staff. In too many forces there are weaknesses in the service provided to victims; some of these are serious and this means that victims are put at unnecessary risk. Many forces need to take action now.*

*Domestic abuse is a priority on paper but, in the majority of forces, not in practice. Almost all police and crime commissioners have identified domestic abuse as a priority in their Police and Crime Plans. All forces told us that it is a priority for them.*

*This stated intent is not translating into operational reality in most forces. Tackling domestic abuse too often remains a poor relation to acquisitive crime and serious organised crime.*

In its Worboys appeal, The Metropolitan Police argued before the Supreme Court that either there is no legal duty on them to investigate at all or if there is a duty it is limited to having policies and systems in place. They argued that women should not have a legal route to enforce compliance with such policies or systems in their individual cases. But policies are meaningless if the police don't follow them.

Women must have the ability to enforce their rights in court, to examine failings in the system and shine a light on what happens to them on the ground. It is simply not enough to draw up policies and carry out top-down reviews. When women can hold the police to account for failings in their individual cases, this can set the agenda and achieve real change.

There is a Victim's Code, but it only covers procedural rights, such as the right to receive certain information and special arrangements for victims when providing an account to the police or evidence in court. It does not

provide victims of crime with any rights in relation to the way in which the police or CPS choose to go about investigating or prosecuting the offence.

The police complaints system has a poor record in upholding complaints and commands little public confidence. The overwhelming majority of complaints are investigated internally within the same police force, not by the Independent Police Complaints Commission (IPCC). Complaints about investigative failings will frequently be dealt with at a local level, not by the force Professional Standards Department (PSD), and any appeal against the outcome will be an internal appeal to the PSD without a right of appeal to the IPCC. The most recent figures for proportion of complaints upheld is 14%<sup>12</sup> and complaints that are upheld often result in only a 'slap on the wrist' - management advice or a warning - and don't attract the attention of those higher up within the force.

Yasmin's case shows that it took the threat of legal action to achieve justice and have her perpetrator pursued, in contrast to the result of two previous police complaints, lasting almost four years. It was only through the legal process that Yasmin was able to get the full picture of what had taken place during the original police investigation.

### **Yasmin's story<sup>13</sup>**

Yasmin was a 21 year old woman with a learning disability who lived with her parents. At around midday she was approached by a strange man in a park who spoke to her and then took her into a public toilet, where he raped her.

Although Yasmin reported the rape immediately, the police failed to progress the investigation: Potential CCTV locations were identified but many not followed up. Yasmin was asked to preserve her clothing worn on the day but it was not collected for five months and not submitted for forensic analysis for six months. No photographs were taken of her injuries, which were noted by the medical examiner to be scratches around the breast and bruising to the wrists. No e-fit was prepared of the perpetrator. Most significantly, over nine months after the offence, some male DNA was identified on Yasmin's underwear, however forensic analysis was not progressed further. The case was closed but Yasmin was not informed of this for over three years.

Two police complaints were pursued, each lasting two years. The officer in the case received a written warning for mishandling of forensic evidence, but no other disciplinary action was taken and other failings were not addressed.

A solicitor's letter threatening civil proceedings was sent, relying upon the duty to investigate under Article 3 of The Convention. Several months later, the week before a meeting with the police solicitor, Yasmin was

informed that the criminal investigation was to be re-opened and taken over by a “cold cases” unit.

At the meeting, attended by officers from the Professional Standards Department, Yasmin gave a moving statement about the impact of the case upon her. In settlement of the civil claim she received compensation, along with a formal written apology from the Deputy Assistant Commissioner for the Metropolitan Police. It was also agreed that Yasmin’s case would be put forward for use as a case study in officer training.

Legal challenges are an invaluable tool, both to bring justice to individual women who have been let down by the legal system and to act as a wider deterrent and publicise failures. At the very least, if there is compensation to be paid following breaches, a police force may consider it more economical to ensure that officers carry out their duties adequately in the first place.

If there were no legal duty to investigate rape at all, the wholesale failures uncovered by the High Court in the case of DSD and NBV,, not just in relation to John Worboys but in all sexual assaults across the Metropolitan Police, would never have come to light. The decision of the High Court in the Worboys case was followed three months later by the announcement of an independent review into rape investigations in the Metropolitan Police conducted by Dame Angiolini. This shows that court findings can and do trigger wider change.

Many of the case studies below show how, in addition to identifying failures, civil claims can lead to important outcomes for women, such as the re-opening of closed investigations and better implementation of policies. Successful civil claims can provide a sense that justice has been done, and are sometimes accompanied by formal apologies. This is in addition to the payment of compensation, which is important to women who have felt deeply let down by the system, sometimes suffering long periods of mental ill-health as a result. The women in the case studies below also suffered homelessness, modern slavery and death as a result of police failings.

## **Violence against women as a breach of human rights**

Violence against women is unarguably a breach of human rights. The right to live free from fear, injury and exploitation is undeniably fundamental and is reflected within The Convention in a range of articles, namely:

- Article 2 - the right to life

- Article 3 - the right to freedom from inhuman and degrading treatment
- Article 4 - the right to freedom from slavery and servitude
- Article 8 - the right to respect for private and family life
- Article 14 - prohibition on discrimination regarding Convention rights

Under The Convention, 'negative obligations' require the State to refrain from inflicting harm, for example death, inhuman or degrading treatment upon citizens. 'Positive obligations', in contrast, require the State to take positive action in response to the infliction of harm by private individuals.

## **Positive obligations – the State must act to protect women**

For almost 20 years the European Court of Human Rights has recognised that if the infliction of inhuman and degrading treatment is to be prevented The Convention must apply to the State's action against 'non-state' individuals. It is particularly apt that its operation extends to addressing violence perpetrated against women by private individuals because such violence emanates from and is tolerated by cultural and social norms.

The European Court developed the concept of positive obligations, which has evolved over the last two decades to become a well established body of principles under The Convention.

Positive obligations can take a number of forms. These include:

- a duty to put in place effective systems of law and law enforcement machinery (known as a 'systemic duty')
- a duty to provide protection by preventing or bringing to an end threatened or on-going human rights breaches (known as the 'operational duty')
- a duty to carry out an adequate investigation after the event capable of leading to the prosecution of those responsible for a human rights breach (known as the 'investigative duty')

These are some of the key rulings of the European Court of Human Rights in Strasbourg which establish the legal precedent for positive obligations<sup>14</sup>:

- The landmark case of *Osman v UK*<sup>15</sup> in 1998 established a positive obligation upon the state to prevent loss of life where the authorities "*knew or ought to have known at the time of the existence of a real and immediate risk to the life of an identified individual from the criminal acts of a third party and failed to take measures within the scope of their powers which, judged reasonably, might have been expected to avoid that risk.*" The case concerned the shooting of a schoolboy's father by his teacher. This 'operational duty' is clearly highly relevant to the protection of women at risk from violent men.
- The case of *MC v Bulgaria*<sup>16</sup> (2003) involved the state's actions in response to the rape of a 14 year old girl by two men. The European Court found a breach of Articles 3 and 8 arising from investigative and prosecutorial failures.
- In *Opuz v Turkey*<sup>17</sup> (2009) the police and prosecution authorities failed to prevent the applicant's violent ex-husband from assaulting her and eventually killing her mother. The European Court identified inadequacies in the Turkish criminal law system and failures to take practical steps to provide protection, finding breaches of Articles 2 and 3. The Court also found a breach of Article 14 arising from discrimination against women in that the passivity of the authorities created a climate conducive to domestic violence.

When imposing positive obligations under The Convention and the HRA both Strasbourg and the UK courts carefully consider the needs of public authorities. Far from imposing legal obligations which only consider the needs of the individual against the State, judges have stressed that serious failures are required before a breach is established.

For example, the 'Osman test' states that:

*For the Court, and bearing in mind the difficulties involved in policing modern societies, the unpredictability of human conduct and the operational choices which must be made in terms of priorities and resources, such an obligation must be interpreted in a way which does not impose an impossible or disproportionate burden on the authorities.*

The evolution of the doctrine of positive obligations has involved the courts in a balancing act between the rights of victims of crime and realistic expectations of the police.

These stories of claims brought under the HRA reflect failings across a broad range of forms of violence against women including rape, sexual



harassment, trafficking and murder on the basis of so-called 'honour'. They show what positive obligations mean in practice:

### **Mandy's story<sup>18</sup>**

Mandy Dunford bought a farm in North Yorkshire, where she lived alone. The neighbouring property was owned by a Kenneth Ward, who began to harass her. Over a period of seven years he indecently exposed himself to her on a regular basis, including openly masturbating, until he was finally arrested.

Mandy reported the harassment to her local police station, where an officer declined to take her photographic evidence. Ward was not arrested, although indecent exposure is an offence attracting up to two years' imprisonment. A first harassment warning was served by the police, following which Ward began to aim firearms in her direction, and on one occasion he discharged shots.

Repeat attempts to report matters to the police resulted in little more than a visit by the police to Ward to warn him not to approach Mandy. On one occasion Mandy took photographs of Ward masturbating to a police station where an Inspector told her that at most he would get an ASBO and that police surveillance would infringe Ward's privacy.

Mandy gave up on getting a police response and had to go to live in a caravan away from her property, as she felt unsafe. She tried to sell her farm but her police complaints were disclosable and a buyer pulled out. The farm could only be sold at a substantial loss.

Eventually a friend compiled a dossier of evidence, including covert video recordings. After this was submitted to the police Ward was arrested and an arsenal of illegal firearms seized from his home. He pleaded guilty to indecent exposure, harassment and firearms offences and was sentenced to 5 years' imprisonment.

Mandy brought a claim against North Yorkshire Police under Articles 2, 3 and 8 of the Convention. Her ordeal had clearly escalated over the seven years as Ward felt he could act with impunity. The police finally apologised and agreed to settle her claim out of court.

### **Helen's story<sup>19</sup>**

Helen reported a sexual assault and attended court to give evidence. On the first day of trial the prosecuting barrister botched an application for her to give evidence behind a screen so that at the last minute she had to face her attacker in court.

She was not warned not to mention in front of the jury that the accused had been to prison on another matter, which would reveal that he had



previous convictions. When she mentioned this inadvertently the jury had to be discharged.

It was open to the prosecutor to apply for a fresh trial, however, without consulting with Helen or even informing her, he offered no evidence, which meant that the accused could not face a re-trial. When Helen raised her concerns with the Crown Prosecution Service (CPS) she received a letter blaming her for the collapse of the trial, including on the grounds of lack of credibility of her account.

Helen threatened to bring a judicial review against the CPS relying upon Article 3 of the Convention. As a result she was able to secure a meeting with the Director of Public Prosecutions (DPP) at which she received an apology, as well as compensation for the impact of the collapsed trial on her ability to recover psychologically from the sexual assault.

The DPP confirmed in writing that the prosecutor was wrong not to request a re-trial, or to consult, inform or support Helen, and that there were no grounds to doubt her credibility. The prosecutor and CPS lawyer would be re-assessed in relation to their suitability to act as sexual offences specialists. The head of the police sexual offences team would review the case to learn lessons regarding joint working with the CPS.

### **Mary's story<sup>20</sup>**

Mary comes from a small village in Nigeria where her family lives in poverty. At the age of 12 she was trafficked to the UK to work for Mrs Okoro, who used a false passport and presented Mary as her step-daughter.

For three years Mary lived in east London in domestic servitude. She attended school but the rest of the day, from early in the morning until late in the evening, she performed unpaid work as nanny, cleaner, cook and generally carried out all household chores. She had no personal autonomy, not being free to come and go and had no money to spend on herself. Mrs Okoro was verbally and physically abusive, regularly assaulting her. Mary was denied sufficient food and other basic needs, she slept on the floor or shared a bed with Mrs Okoro's young children.

Several months after her arrival in London Mary reported an assault to the police. They noted a cut to her ear and old scar tissue under the eye but after two days in foster care she was returned to Mrs Okoro's home. Mary's school made a referral to social services that Mary had reported being hit by her step-mother, that she never has money for lunch and goes hungry and that her step-mother uses her as "cheap labour" as she has to get up at 5.30am to do household chores. A police file was opened and closed five days later.

A social services assessment was carried out and closed. Over a year later following an anonymous report of child labour and physical abuse another such assessment was conducted but no action taken.

At the age of 15 Mary finally fled from Mrs Okoro's home following an assault which led her to contact the police and provide a detailed account of her experiences, and she was permanently taken into foster care.

However, even now the police investigation treated the issue as assault rather than trafficking and the criminal case was closed on the basis that it had been a "tit for tat" altercation. A trafficking investigation was eventually opened nine months later after a request by Mary's immigration solicitor. However, this investigation was also closed when the police failed to address the correct elements of the criminal offences associated with trafficking.

Only after Mary's solicitors threatened judicial review using Articles 3 and 4 of the Convention did the police re-open the trafficking case and begin a fresh investigation based on a correct application of the law. A civil claim based on Articles 3 and 4 was settled out of court.

### **Dersima's story<sup>21</sup>**

Dersima was murdered at the age of 21 and her body found in a suitcase buried in a garden three months later. Her father, uncle and three other men were convicted of her murder.

Dersima entered into an arranged marriage at the age of 18. She suffered abuse and left the marriage after two years, returning to her family's home. She then began a relationship with a man which 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.

Dersima 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 threatening phonecalls and wrote a letter to the police providing names of suspects, with details on how to trace them.

Later that month Dersima 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 raised the alarm by breaking a neighbour's window. Police officers who attended 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 Dersima's boyfriend was approached and threatened by a group of men. Both he and she separately reported this to the police. No steps were taken to investigate. Instead an officer attended Dersima's home and spoke to her parents who provided assurances that all was well. Dersima disappeared the next day.

Dersima's sister brought a civil claim against the Metropolitan Police for failure to prevent her murder under Article 2 of the Convention, the right to life. She brought the case in an effort to achieve acknowledgment by the police of their failings in the period leading up to her sister's death. The police agreed to a settlement of the claim a week before trial.

## Challenging police failures

A long established legal principle prevents women from bringing claims of negligence against the police or Crown Prosecution Service for failure to act in response to VAWG. This rule, often referred to by lawyers in legal shorthand as 'core immunity', applies to any alleged failures in the investigation or suppression of crime.

'Core immunity' first arose in 1988 when the mother of Jacqueline Hill, the Yorkshire Ripper's final victim, brought a claim against West Yorkshire Police<sup>22</sup>. She alleged that had the police not been negligent in their investigation, Peter Sutcliffe would have been apprehended before her daughter was murdered.

The House of Lords rejected Mrs Hill's claim on the basis of public policy, making the unjustified finding that the right to bring such a claim would cause the police to adopt a "defensive frame of mind".

Over the 29 years since the *Hill* case there have been three unsuccessful attempts to overturn the 'core immunity' principle. In both *Brooks v Commissioner of Police for the Metropolis*<sup>23</sup> and *Smith v Chief Constable of Sussex Police*<sup>24</sup> the House of Lords upheld the prohibition on negligence claims brought by victims of crime or witnesses, denying that the police have a duty of care.

### **Joanna's story**<sup>25</sup>

Joanna Michael dialled 999 and reported that her ex-boyfriend had just turned up in the middle of the night and found her with another man. She told them that he had hit her, was driving the man home and was then going to kill her. The call was wrongly downgraded to a lower priority and when police later arrived at her home Ms Michael had been fatally stabbed.

The Supreme Court found in Joanna Michael's case that the police had no duty of care. This was despite detailed evidence about the extent of domestic violence, which judges described as "shocking", and their agreement that the imposition of a liability for negligence may lead police forces to change their priorities and apply more resources to reports of violence or threatened violence.

The Supreme Court struck out the negligence claim brought by Joanna Michael's family, but allowed a claim for breach of Article 2 under the HRA to proceed.

The legal position therefore remains that if a doctor is negligent the NHS Trust can be sued, if a lawyer is negligent the law firm can be sued, but if a police officer is negligent in the investigation of crime it is not possible to sue the police force.

## **The future of human rights in the UK**

Since the evolution of positive obligations and the introduction of the Human Rights Act, women have had a legal route to bring claims in the UK courts. If this legal avenue is destroyed there will be no route to bring claims in UK law, given the bar on negligence claims.

Positive obligations, which have been so useful to women challenging poor police practice, are implicit, not explicit, rights in the Convention. They have developed through European Court decisions.

This means that positive obligations are particularly vulnerable to being overlooked or deliberately disposed of were the HRA to be replaced with a British Bill of Rights.

The political debate around repeal of the HRA has included frequent references to European Court judges extending the scope of The Convention beyond what was originally intended. For example, in February 2017 Theresa May stated:

*The Government wishes to reform the UK's domestic human rights framework, by replacing the Human Rights Act with a British Bill of Rights. This Bill will remain faithful to the basic principles of human rights found in the original European Convention on Human Rights<sup>26</sup>*

Martin Howe QC, a member of the Commission on a Bill of Rights, (which reported its conclusions in December 2012)<sup>27</sup> expressed the view that:

*For my part I consider that the decisions of the Strasbourg Court in many respects have departed from the Convention by embroidering onto the Convention doctrines and interpretations which are neither*

*there in the words of the Convention nor can reasonably have been intended by the States who drafted the Convention.*

The fight against VAWG has come a long way since the Convention was drafted in 1950 and the European Court has played its part in a wider social revolution in women's rights. The European Court has recognised that the Convention must be treated as a living – and therefore dynamic – instrument if it is to remain relevant to changing social realities.

There is now an attempt to roll back increased protections for women. If the Supreme Court were to accept the police arguments in the Worboys case this would represent a serious blow for women's safety and police accountability.

## **Conclusion**

Human rights don't just matter in theory; conventions and treaties, strategies and policies are just good intentions, just words on a page.

Human rights need to have effect in practice. Whether it's in the stands in Hillsborough, in the hospital beds of Mid Staffordshire or in the black cabs of London. When the State lets us down so badly that a man who could have been taken off the streets is instead left to rape dozens more women, human rights must be made to work for women in practice, so that we can hold that State, the police, to account.

As the Government negotiates withdrawing from the European Union, women's rights in many aspects of their lives are at risk of being watered down. Whether it's employment rights, or cooperation between criminal justice systems across the EU, we are concerned that women will be less protected. Worryingly, we are seeing a mismatch between the Government's commitment to uphold human rights values and standards and its intention to walk away from these same standards. The Prime Minister, Theresa May has repeatedly asserted the Government's commitment to address VAWG, recognising that victims are often let down by the legal system and that there is an unacceptable inconsistency in law enforcement across the country. Yet at the same time, she has signalled her intention to repeal the Human Rights Act 1998.

The crucial role of human rights law has to be put into context. Women in the UK continue to experience appallingly high levels of violence. Survivors of domestic and sexual violence, women and girls living with the consequences of or the threat of FGM and so-called 'honour based' violence, struggle to get justice. Our criminal justice system continually fails women who report violence, by failing to investigate and prevent crimes. Some police officers, lawyers, judges and juries still judge a woman reporting rape on her behaviour, rather than focusing on her

attacker's conduct. There is no other law which allows women to hold the State to account when things go catastrophically wrong. That is why the Human Rights Act is crucial to protecting women's rights in the UK and why we will resist any attempts to remove it.

## References

<sup>1</sup> *Domestic abuse in England and Wales: year ending March 2016*, Office for National Statistics, 8 December 2016

<sup>2</sup> <http://www.northwales-pcc.gov.uk/Document-Library/Advice/Femicide-Census-Report-2016.pdf>

Women's Aid/Counting Dead Women

<sup>3</sup> Crime Survey for England and Wales 2013 and Office for National Statistics 2016

<sup>4</sup> <https://www.publications.parliament.uk/pa/cm201617/cmselect/cmwomeq/91/9102.htm>

<sup>5</sup> Violence against women and girls covers a range of crimes, including domestic violence and abuse, sexual violence and child sexual abuse, stalking, so-called 'honour-based' violence - including forced marriage and female genital mutilation (FGM), gang related violence, and human trafficking. There is now a consensus in respect of the coercive and controlling function of all forms of VAWG.

<sup>6</sup> See for example SBS' submission to Her Majesty's Inspectorate of the Constabulary on so-called 'honour based' violence (December 2014) available at SBS.

<sup>7</sup> see High Court judgment for a full account of the facts of the case

[http://www.baillii.org/cgi-bin/format.cgi?doc=/ew/cases/EWHC/QB/2014/436.html&query=\(DSD\)+AND+\(NBV\)](http://www.baillii.org/cgi-bin/format.cgi?doc=/ew/cases/EWHC/QB/2014/436.html&query=(DSD)+AND+(NBV))

<sup>8</sup> names in the case studies have been changed

<sup>9</sup> [http://www.rotherham.gov.uk/downloads/file/1407/independent\\_inquiry\\_cse\\_in\\_rotherham](http://www.rotherham.gov.uk/downloads/file/1407/independent_inquiry_cse_in_rotherham)

<sup>10</sup> <https://www.gov.uk/government/publications/call-to-end-violence-against-women-and-girls>

<sup>11</sup> <https://www.gov.uk/government/publications/strategy-to-end-violence-against-women-and-girls-2016-to-2020>

<sup>12</sup> the figure for both 2014/15 and 2013/14, the IPCC has not published figures since on the basis that the approach to complaint outcomes was declared unlawful by the Court of Appeal in 2014, fresh Guidance has been issued subsequently and analysis is still being updated

<sup>13</sup> fuller accounts of all the HRA case studies in this report are in the Annex, Yasmin's case at page 23

<sup>14</sup> see judgment of Mr Justice Green in *DSD and NBV v Commissioner of Police* [2014] EWHC 436 (QB)

paragraphs 139 to 210 for a survey of European Court decisions as at February 2014

<sup>15</sup> European Court of Human Rights (23452/94), (2000) 29 E.H.R.R. 245

<sup>16</sup> European Court of Human Rights (39272/98), (2005) 40 E.H.R.R. 20

<sup>17</sup> European Court of Human Rights (33401/02), (2010) 50 E.H.R.R. 28

<sup>18</sup> fuller account in Annex page 24

<sup>19</sup> fuller account in Annex page 26

<sup>20</sup> fuller account in Annex page 28

<sup>21</sup> fuller account in Annex page 29

<sup>22</sup> *Hill v Chief Constable of West Yorkshire Police*, House of Lords [1988] 2 All E.R. 238

<sup>23</sup> [2005] UKHL 24

<sup>24</sup> [2008] UKHL 50

<sup>25</sup> *Michael v Chief Constable of Gwent and South Wales Police* [2015] UKSC 2

<sup>26</sup> letter to British Human Rights Institute 6 February 2017

<sup>27</sup> Commission on a Bill of Rights Final Report Volume 1

<http://webarchive.nationalarchives.gov.uk/20130206021312/http://www.justice.gov.uk/about/cbr/>

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## Appendix

### Yasmin's story

Yasmin was a 21 year old woman with a learning disability who lived with her parents. On a day in October 2010 at around midday she was approached by a strange man in a park who spoke to her and then took her into a public toilet, where he raped her.

Immediately after the assault Yasmin approached a Police Community Support Officer and reported the attack. She was taken for a medical examination, gave a detailed statement and the scene was preserved.

However, the police then failed to take steps to progress the investigation: Potential CCTV locations were identified but many not followed up. Yasmin was asked to preserve her clothing worn on the day but it was not collected by the police for five months and not submitted for forensic analysis for six months. No photographs were taken of her injuries, which were noted by the medical examiner to be scratches around the breast and bruising to the wrists. No e-fit was prepared of the perpetrator. Most significantly, over nine months after the offence, some male DNA was identified on Yasmin's underwear, however its analysis was not progressed further.

Yasmin's sister expressed concerns about the lack of updates on the investigation. A formal complaint was made on Yasmin's behalf in December 2010 by a police officer family friend who had no personal involvement in the case. Nevertheless, the case was not progressed and the officer in charge decided to close the case in October 2011, though Yasmin was not informed. A second formal complaint resulted in a report by the Professional Standards Department, which was released to the police officer friend, who provided it to Yasmin's sister in August 2013. The officer in the case received a written warning for mishandling of forensic evidence, but no other disciplinary action was taken and other failings were not addressed. Yasmin was not spoken to as part of the complaint investigation. She was sent a letter in December 2013 informing her for the first time that the case was closed, which contained misleading information about the evidence in the case.

In early 2014 Yasmin, her sister and police officer friend sought assistance from a solicitor and in April 2014 a formal letter threatening civil proceedings was sent, relying upon the duty to investigate under Article 3 of The Convention.

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As a direct result of the threat of legal action a meeting was arranged in October 2014 with senior officers and the force solicitor to seek to resolve the issue. A week before the meeting Yasmin was informed that the criminal investigation was to be re-opened and taken over by a unit specialising in "cold cases".

At the meeting, attended by officers from the Professional Standards Department, Yasmin gave a moving statement about the impact of the case upon her. In settlement of the civil claim she received compensation, along with a formal written apology from the Deputy Assistant Commissioner for the Metropolitan Police. It was also agreed that Yasmin's case would be put forward for use as a case study in officer training.

## **Mandy's story**

Mandy Dunford is a retired police officer. She bought a farm in North Yorkshire in 1998, where she lived alone. The neighbouring property was owned by a Kenneth Ward and his brother who began to harass her. Initially they would watch her for long periods with binoculars, leave dead animals on her land and leave gates open deliberately endangering her animals. She tried to address the problems through their landlord.

In 2004 Kenneth Ward indecently exposed himself to Mandy, and seeing that this upset her, began to do so on a regular basis, including openly masturbating. He continued this over many years, until he was finally arrested in 2011.

In May 2004 Mandy reported the matter at Stokesley Police station. An officer took a preliminary statement but did not make any other enquiries. Mandy had taken some photographs as evidence to support her allegations and gave the undeveloped film to the officer. The officer claimed that the photographs were of poor quality (although they did at least show a naked man) and that it was not possible to mount any form of surveillance. He said to Mandy "you've gone looking for this haven't you".

A first harassment warning was served by the police, but Kenneth Ward was not arrested although indecent exposure is an offence punishable by up to two years' imprisonment.

Following the harassment warning Kenneth Ward's hostility to Mandy increased, and he began to carry firearms which he aimed in her direction. On one occasion he discharged 5 shots in rapid succession in her direction, indicating that this was an automatic weapon (and therefore likely to be illegal). Mandy attended the same police station in June 2004 to report the increased harassment but the officer demonstrated a lack of



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interest, made no records and took no action. Mandy then attempted to resolve the situation by contacting her MP and local council anti-social behaviour officer, however she was directed back to the police. Mandy persisted and in October 2004 an arrest warrant was finally issued. However whilst it was being executed police learned that Kenneth Ward's brother had died. He was de-arrested and allowed to return home. He was later visited by police and warned not to approach Mandy, however no further steps were taken against him.

Police failed to take up an offer of a statement from another neighbour who could confirm that he had seen Ward using a shotgun without a licence, nor did they obtain a statement from that neighbour's daughter who in 2011 provided an account that Ward had regularly exposed himself to her over a 2 year period.

In April 2005 Mandy asked police to attend as Ward had placed tubs of poison close to her animals. Police took some samples, which were positive, but there was no follow up. That spring Mandy concluded that the police would not assist her and decided to re-locate as she felt unsafe at the farm. She went to live in a caravan elsewhere. She returned in May 2006 and her tyres were slashed. Later that summer the incidents of exposure and masturbation began again.

A male friend of Mandy's agreed to stay at the property when he was able which deterred Ward to some extent. In early 2010 her friend managed to take photographs of Ward masturbating and in June 2010 she attended the police station again. She spoke to an Inspector who refused to book an appointment and told her that the most that would happen was that Ward would get a 6 month ASBO. When she raised the criminal offence of indecent exposure he was dismissive. He told her that reporting would make matters worse. In response to her request to investigate he said that surveillance would "infringe Ward's privacy".

Mandy gave up on securing any policing response and tried to sell her property. However her complaints about Ward were disclosable to potential buyers, and indeed one prospective buyer pulled out. The harassment and indecent exposure continued.

In February 2011 Mandy broke down and explained the pressure that she was under to a female friend who was a police officer. Her friend compiled a dossier of evidence with her, including covert video recordings. Following submission of that evidence in May 2011 Ward was arrested and an arsenal of illegal firearms seized from his home. He pleaded guilty in December 2011 to indecent exposure, harassment and firearms offences and was sentenced to 5 years' imprisonment.

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Ward was due for automatic release half way through his sentence, in January 2014. The Sexual Offences Prevention Order imposed on conviction permitted him to return home following expiry of his license conditions. Mandy has lived in fear of Ward's return as his conduct suggested he would take revenge against her. She has however been unable to sell her farm; a local estate agent has explained that her property could only be sold at a substantial loss, eg to a lone male purchaser. Although she remains at the farm for the time being, she has had to purchase another property as a safe place for her and her animals as Ward could return at any time. This has left her facing financial ruin.

Mandy brought a claim against North Yorkshire Police under the HRA for breaches of Article 8 of The Convention, the right to a private life, and under Articles 2 and 3 arising from the failure to investigate the threats to her life and the inhuman and degrading treatment to which she had been subjected. The severity of that ill treatment had clearly escalated over the years as Ward felt he could act with impunity.

She set out her claim in December 2012 and the police conceded that she had a viable claim under the HRA. Eventually, and after a number of delays, the police apologised and agreed to settle her claim out of court.

## **Helen's story**

Helen<sup>27</sup> reported a sexual assault on 7 March 2008. The trial of her alleged attacker began on 7 March 2009.

On the first day of trial the prosecuting barrister botched an application for her to give evidence behind a screen so that at the last minute she had to face her attacker in court. She was not warned by the prosecution lawyers not to mention in front of the jury that the accused had been to prison on another matter, which would reveal that he had previous convictions. When she mentioned this inadvertently the jury had to be discharged.

It was open to the prosecutor to apply for a fresh trial, however, without consulting with Helen or even informing her, he offered no evidence against the alleged perpetrator. This meant that he was acquitted and could not face a re-trial as this would breach the double jeopardy rule<sup>27</sup>.

When Helen raised her concerns with the Crown Prosecution Service (CPS) after the trial she received a letter blaming her for the collapse of the trial, on the basis of the credibility of her evidence and disclosure of the previous convictions of the accused.

Helen threatened to bring a judicial review claim against the CPS under the HRA for a breach of the obligation under Article 3 of The Convention

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to carry out an effective prosecution of the assailant. There was no criticism of the CPS policies, but of the failure to apply them in practice.

At a mediation meeting on 25 June 2010 Helen was able to give a personal account of her experience to Alison Saunders, the current Director of Public Prosecutions (DPP). She received a personal apology from her and compensation in recognition of the breach of human rights and the impact that the collapsed trial had had on her ability to recover psychologically from the sexual assault.

The DPP agreed to feed back Helen's experience to prosecutors and caseworkers within the learning and improvement processes for both the CPS and the Metropolitan Police to seek to ensure that the errors made in her case are not repeated.

Following the meeting she wrote to Helen confirming that:

- the application for screens should have been dealt with more proactively and competently
- the decision to offer no evidence and not request a re-trial was wrong
- the failure to support Helen, including by consulting or informing her of the decision to offer no evidence was unacceptable
- Helen's credibility was not affected by the cross examination, that she is a reliable, honest and plausible person and that her credibility should not have been put forward in the letter as a reason for not seeking a re-trial
- she was not to blame in any way for the collapse of the prosecution and should not have been made to feel that she was
- there had been poor communication by the CPS
- no advice was issued by the CPS to the police post-charge in Helen's case, despite guidelines
- the case would be referred to the Joint Advocate Selection Committee to assess whether the prosecuting barrister should remain on the list of those authorised to carry out sexual offences prosecutions. The CPS would similarly assess the CPS lawyer and her manager.

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- the Metropolitan Police Head of Sapphire Team would be asked to consider the case to learn lessons and improve the way in which the police and CPS deal with cases jointly

## **Mary's story**

Mary comes from a small village in Nigeria where her family lives in poverty. At the age of 11 she was placed with a Mrs Okoro in Lagos on the understanding that she would assist with housework and childcare and in return Mrs Okoro would pay for her to attend secondary school. However, she was never enrolled at school. Instead, when she was aged 12, Mrs Okoro brought Mary to the UK, using a false passport showing Mary to be her daughter, along with Mrs Okoro's two young children.

Between the ages of 12 and 15 Mary lived in east London with Mrs Okoro in domestic servitude as a "housegirl". She attended school but the rest of the day, from early in the morning until late in the evening, she performed unpaid work as nanny, cleaner, cook, laundress, and generally carried out all household chores. She had no personal autonomy, not being free to come and go and had no money to spend on herself. Mrs Okoro was verbally and physically abusive, regularly assaulted her and threatened that if Mary went to the police she would create trouble for her. Mary was denied sufficient food and other basic needs, she slept on the floor or shared a bed with the children.

Mrs Okoro presented Mary as her step-daughter, with the same surname as herself, and gave a false account of how they had come to live together, which Mary went along with as she was too frightened to disobey.

Five months after her arrival in the UK Mary reported to the police that she has been assaulted by Mrs Okoro. They noted a cut to her ear and old scar tissue under the eye. When they attended the home they found Mary alone with the young children. The police interviewed Mrs Okoro, who expressed remorse and said that she had not realised that hitting children was not allowed in the UK and she would not do it again. She was given a caution by the police and after two days in foster care Mary was returned to Mrs Okoro's home.

The following month Mary's school made a referral to social services that Mary had reported being hit by her step-mother, that she never has money for lunch and goes hungry and that her step-mother uses her as "cheap labour" as she has to get up at 5.30am to do household chores. The same day social services made a referral to the police. The police file was closed five days later without any steps being taken.

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A Core Assessment was conducted by social services and the file was closed after two months. 14 months later social services received an anonymous report of "child labour and physical chastisement of a 14 year old named XXXX<sup>27</sup>". Another Core Assessment was commissioned and completed three months later. The conclusion of both Core Assessments was that no further action would be taken.

Two and a half years after her first report to the police, at the age of 15, Mary finally fled from Mrs Okoro's home following an assault which led her to contact the police and provide a detailed account of her experiences, and she was then taken into foster care.

However, even now Mary was not treated as a victim of trafficking by either the police or social services. The police investigation was not into trafficking offences but into assault and the CPS decided not to charge Mrs Okoro on the basis that it had been a "tit for tat" altercation. A trafficking investigation was opened nine months later after a report by Mary's immigration solicitor that she was a victim of trafficking. However, this investigation was also closed following a review by a Detective Inspector who noted that the victim had lived "voluntarily" with the suspect for over two years and who failed to address the correct elements of the criminal offences associated with trafficking.

Only after Mary's solicitors threatened judicial review did the police re-open the trafficking case and begin a fresh investigation based on a correct legal analysis of trafficking, four years after Mary had first approached the police with a cut to her ear. The legal challenge was based upon a breach of Article 4 of The Convention, the prohibition on forced or compulsory labour, and Article 3, which prohibits inhuman and degrading treatment.

Articles 3 and 4 were also the basis for a civil claim under the HRA against both the police and social services for failing to identify Mary as a victim of trafficking. The civil claim contained a detailed analysis of how staff within both these public bodies showed a lack of basic understanding of trafficking issues and it is hoped that lessons were learnt which have fed into staff training. The civil claim was settled out of court and Mary received compensation for the additional two and a half years she spent in domestic servitude.

### **Dersima's story**

Dersima was murdered on 24 January 2006 at the age of 21. Her family, who are Iraqi Kurds, came to the UK in 1998. She lived with her parents, an elder brother and sister and two younger sisters. The family was strongly patriarchal and the views of the father and other male relatives were dominant. She and her sisters were subjected to assaults and threats by their father as they grew up. Her elder sister Bijya left home at

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the age of 15 in order to avoid an arranged marriage and was subjected to an attempted murder by her brother following her departure. This was reported to the police.

Dersima entered into an arranged marriage in 2003, in which she suffered abuse, and she left the marriage in 2005 and returned to the family home.

In September 2005 Dersima began a relationship with a man which was deemed unsuitable by her parents, uncles and male cousins. In November or December 2005 she was taken to Sheffield and imprisoned in the house of a relative and beaten. Her uncle called a family meeting and Bijya is aware that those present at the meeting resolved to kill Dersima and her boyfriend if they did not cease their relationship.

On 2 December 2005 Dersima went to Mitcham Police Station and reported that she had left her husband, had been seen with her boyfriend, that she believed her life was in danger and explained that she came from a culture where women may be killed if they brought shame on the family. She was distressed and fearful. On 10<sup>th</sup> December she reported two threatening phonecalls to the police. She then wrote a letter to the police providing names of people she suspected might try to kill her, with details on how to trace them, received by the police on 12 December.

On 31 December 2005 Dersima was taken to her grandmother's house in London. She was held down and forced by her father and uncle to drink a large amount of brandy. They entered the room wearing gloves. She became so frightened that she escaped and raised the alarm by breaking a neighbour's window. Police attended and Dersima reported a threat to her life. She was barefoot and very distressed. However the officers who attended 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.

On 22 January 2006 Dersima's boyfriend was approached and threatened by a group of men. The following day he reported this at Kennington Police station and also gave an account of the history including the events of New Years Eve. On the same day Dersima reported the incident of the previous day at Mitcham Police Station and named the men involved. No steps were taken to investigate. Instead an officer attended Dersima's home and spoke to her parents who provided assurances that all was well.

On 24 January 2006 Dersima was killed and her body was found in a suitcase buried in a garden in Birmingham on 29 April 2006. She had been killed by two men employed by her father and uncle. Her father and

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uncle were convicted of murder at the Old Baily on 11 June 2007 along with a third man and the two men who carried out the killing were convicted of murder on 11 November 2010.

Bijya brought a civil claim against the Metropolitan Police for failure to prevent her sister's murder under the Human Rights Act – breach of Article 2 of The Convention, the right to life. She brought the case in an effort to achieve acknowledgment by the police of their failings in the period leading up to the death.

Following a refusal by the police to accept liability, full details of the claim were served in July 2012. The claim was vigorously defended by the police, who tried to persuade Bijya's solicitors to drop the case 3 months before trial. A week before the trial was due to begin in January 2014 the police agreed to a confidential settlement (confidentiality being at the request of the police force). It is hoped that lessons have been learnt by the Metropolitan Police from these tragic events which will improve police understanding of their legal duties and of so-called 'honour based' violence.



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