

CEDAW PEOPLE'S TRIBUNAL

(Case ref: 023)

(Statement number: XX)

WITNESS STATEMENT OF PRAGNA PATEL

I, PRAGNA PATEL, will say as follows:

1. My name is Pragna Patel, I am the director at Southall Black Sisters (SBS) and I am speaking on behalf of the organisation. I have read the privacy statement and signed the consent form. I agree for this recording to be used for the purpose of the CEDAW People's Tribunal.
2. Black and minority women's organisations have sprung up over the last four decades which is important because these women constitute one of the most marginalised and vulnerable groups in society. They are particularly powerless and hard to reach, and without the existence of these organisations they would remain invisible and their needs unaddressed.
3. Organisations like Southall Black Sisters sprang up in the late 1970s because women's needs were being unmet. Within their own communities, community organisations largely catered for issues to do with welfare, issues in relation to the welfare system, the immigration system, housing or employment. But none were set up specifically to address women's experiences, particularly of abuse, violence or other forms of harm in the context of the family and relationships. On the other hand, black and minority women's needs were also unmet in the wider society because state institutions failed to take account of women's experiences specifically within minority communities.
4. So, specialist BME services like ours, provide confidential safe and confidential spaces; they provide a space that women feel comfortable within in relation to making disclosures of abuse. They feel they will be understood, have their needs met in the appropriate language,

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Dated:

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receive counselling, have access to other services that are specifically tailored to the kind of experiences they face and generally receive the kind of advocacy and support they need.

5. BME services are so critical for women because they are best placed to understand where the gaps in protections are and what the emerging forms of violence and abuse are. They understand the particular needs of a community and the intra-community barriers that need to be addressed. They are well placed to identify further risks in a way that outside services, both within the wider third sector and the statutory sector, cannot do.
6. BME women services have faced challenges on multiple levels. There is a wider economic context of austerity which has had a significant impact on these services. Many have been decimated, they have closed, or they have been threatened with closure and that's largely because funding regimes have moved towards commissioning structures that favour large, corporatized bodies. These structures favour the provision of generic services over smaller ones that provide a tailored response to specific cohorts of women.
7. The austerity measures in combination with changes in funding regimes and the move towards commissioning structures have had a devastating impact on the existence of, not just specialist BME VAWG services, but generally specialist BME services. For a long time, we have argued for ring-fenced funding for these services, which have shrunk considerably and are still in a precarious state, but we find that austerity measures combined with commissioning structures are continuing unchecked. This is despite concerns being routinely raised in various official inquiries and submissions on a range of issues.
8. Between 2008 and 2009, Southall Black Sisters faced a crisis period when, after three decades of getting a grant from the local authority to carry out our work for BME women, we found ourselves facing changes in commissioning structures at our local level. We were funded by Ealing council but in 2008 it moved towards a commissioning structure that favoured the provision of one generic service for domestic abuse in the borough. We argued that the generic service would not be able to meet the needs of BME women specifically, and that

instead the council should consider funding two services - one generic services and one specialist. The council refused to do that, and so our funding was withdrawn and placed into a pot to fund a generic service.

9. We felt compelled to bring a legal action against the council on the basis that it had failed to carry out an equality impact assessment to assess what the withdrawal of funding for a specialist service would mean for vulnerable groups, particularly BME women in the area. The council had not carried out an equality impact assessment as it is required to do under the public sector equality duty. Eventually it did carry out an equality impact assessment, which was more of a tick-box exercise because after having carried it out it came to the conclusion that a specialist service was not needed, even though we had made significant representations and submissions setting out the need in great detail.

10. The matter eventually went to the High Court. Over a two-day hearing, we argued that the council had breached the equalities duty, particularly the race equality duty and had acted unlawfully in the way the decision was made. Eventually, in the course of the two days, Ealing council decided to withdraw its decision and reconsider its position having realised the ruling would have gone against it and perhaps gone further in criticising how it made its decision. Nevertheless, we asked the court for a judgment because we were concerned that the Council could make the same decision again. We viewed that matter not just as a local funding issue; it raised key equality principles and had wider significance for the survival of BME services across the country.

11. LJ Moses, who presided over the matter, agreed to provide a written judgement even though Ealing council had withdrawn its decision. In that judgement, several important equality principles were reiterated. This ensured that other local councils and public bodies also abided by those principles when making key funding decisions. Two of the principles that the judge particularly reiterated were the need to carry out equality impact assessments not to justify decisions retrospectively, but to carry out assessments at the formative stage of decision-making to shape and form the decisions. That was very important because local

councils in carrying out their funding decision were disregarding the need to adhere to the equalities legislation and were failing to carry out equality impact assessments. Or they were doing so as a tick-box exercise to justify decisions that were already pre-determined. The other principle that was reiterated was that the existence of specialist services did not contravene equality legislation.

12. What is clear from this case is just how drastically the socio-economic climate has impacted on organisations like ours and how we operate. It also highlights how governance at both the local and central level has failed to adhere to the Equalities Legislation. It is only through struggle and through the efforts of grassroots organisations that use the law and other avenues to challenge unlawful funding decisions that we have been able to survive.

13. A key focus of organisations like ours is the impact on women due to the overlap between migration status and gender-based abuse. 60% of the women who come to us have uncertain immigration status and are subject to various forms of violence and abuse. The current immigration policies and laws which have increasingly become harsher and more draconian, and which form part of the wider government's policy and the hostile environment, have had a devastating impact on migrant women who need to escape abuse. When women have insecure migration status and are subject to abuse, their insecure status makes it difficult, if not impossible for them to leave the abuse without facing deportation or removal. More often than not they are also subject to what is called the 'No Recourse to Public Funds' (NRPF) condition. This is applied to people who are subject to immigration controls and means that they do not have access to the welfare safety net – that is social housing and most forms of social security benefits.

14. The combination of fear of deportation from the UK, and the fear of becoming destitute because they cannot access welfare support, leaves women feeling trapped in situations of abuse and violence. The immigration rules themselves become weaponised by abusers who use a woman's insecure immigration status to continue and escalate abuse, and to keep women in captive situations. Most of the women who come to us recount experiences of

heightened forms of abuse, which include domestic servitude or domestic slavery, acute imprisonment and isolation within their homes and complete financial dependency on abusers; even if they are allowed to work, they often have to hand over their wages to their abusers. Many are not allowed to work at all. They are subject to heightened forms of sexual, physical or verbal abuse and they are prevented from having any contact with the outside world. They are often denied contact with their own families who are usually abroad. They are kept in constant fear and told that if they disclose their experiences to an outside body, including the police, they will be arrested, detained and deported. Many of these women come from countries where there is great stigma attached to having come from a broken marriage and to being separated and divorced. Almost always isolation and destitution follow, as they are rejected by families and communities for bringing shame and dishonour on their families. In their countries of origin, the welfare state is weak or non-existent so they cannot live independently. For many, survival is impossible.

15. The hostile immigration environment has made it even more difficult for women to make disclosures of abuse because every point of contact they might have in accessing state services, whether it is healthcare education or social services, are embedded within a wider hostile environment strategy. Many of these services will data share with the home office, which will then increase women's risks of being removed or deported even before they have had the chance to obtain protection or access to legal advice or representation to resolve their immigration matters.

16. This situation has been exacerbated in the current COVID pandemic where the routes to safety have shrunk for all women subject to abuse, but even more so for women who have uncertain immigration status and who are subject to the NRPF.

17. The current Domestic Abuse Bill which is currently going through parliament has been lauded as a once in a generation bill that will protect women from violence and abuse. It purports to strengthen the forms of redress they have and the forms of protection that they should be entitled to. But as the Bill currently stands, it does not include protection for migrant women. We and other migrant women's organisations have been lobbying government to ensure that

protections for migrant women are enshrined in the Bill. The government has shown no inclination to do so and has instead suggested that a pilot project is undertaken to assess the needs of migrant women. We argued that the needs are well-known; we and others have engaged with the Home Office for a period of 18 months and made countless written and oral submissions highlighting exactly what the extent of the need is and what the gaps in protection are, but all this evidence has been ignored or misconstrued.

18. Despite this, the government has insisted on proceeding with the pilot project. It will provide £1.5 million for charity organisations to support migrant women with NRPF who are subject to abuse. That will only help, at the most and at a very basic level, 500 women a year. Yet, the number of women subject to abuse who have NRPF probably run into the low thousands. Also, the project will only be for a year; it is wholly inadequate. It will not cover the kinds of costs that are needed to support women properly until they have regularised their stay.

19. There is significant evidence that shows how austerity policies have impacted, specifically on women. Austerity has had a disproportionate impact on BME women's access to services. Women are more likely to lose employment, and as a result of which are more likely to be plunged into poverty. They are less able to access jobs due to a lack of childcare. However, in my view, the area where austerity has had the greatest impact is in relation to access to justice due to cuts in legal aid. Women who are subject to domestic abuse, who need access to the courts in relation to private family matters, have been particularly impacted.

20. The lack of legal aid is the single most important indicator of just how devastating austerity measures have been for women. We have seen several cases where women have had to represent themselves even in contexts where their opposite party are their abusers. They find themselves in positions where they have to cross-examine their own abusers. That imbalance of power in the courtroom, directly leads to an imbalance in access to justice; justice is not accessed equally. It leaves women unable to articulate exactly what their concerns are in court and, as a result, jeopardises their access to their children and their own

safety. They may also find themselves in situations where they are even more vulnerable because abusers often use the legal litigation as a form of abuse.

21. Another outcome of the cuts to legal aid is that organisations like ours are finding it harder to obtain legal aid advice and representation because remuneration for lawyers who conduct cases on a legal aid basis has shrunk. Many legal aid firms have stopped doing legal aid work, and that means many of the women we work with have little or no access to legal aid advice and representation. They often face delays in accessing advice and representation. This affects areas where we need advice and representation on an urgent basis which includes in areas such as housing, community care, family law and immigration law. These are the areas that are implicated in the work that we do in supporting women subject to violence and abuse.

22. The COVID-19 pandemic has also impacted upon every area of our work. It has exacerbated the existing inequalities that we address and the inequality gap is only widening. For example, because of the lockdown it is harder for women to engage with the legal justice system. It has been organisations like ours that have had to fill the gaps that have been created by the pandemic and the lack of support and welfare infrastructure that exists to deal with issues like violence against women and girls (VAWG). When the lockdown occurred, women found themselves even more trapped in situations of abuse and violence, and that particularly impacted on those who already find it difficult to make disclosure, such as BME and migrant women. That situation could have been planned for by the government because there were clear warning signs from other countries that the pandemic was giving rise to spikes in domestic abuse and domestic homicide and was creating vulnerabilities. The government needed to put in place protections and the infrastructure to support vulnerable groups in society but failed to do so.

23. In the UK, at the beginning of the lockdown in March, the government had put nothing in place in relation to supporting abused women or women who are subject to violence and abuse in their homes. There were no coordinated strategies, forward thinking or planning. It

was only as a result of an outcry within the VAWG sector, and through campaigns and the threat of a legal challenge by us, that the government put made funding for support for abused women available and put into place various plans to support women to leave abusive situations. It was interesting that, at the beginning of the lockdown, the government made plans for street homeless people – which was absolutely right and the correct thing to do – but had not thought about other vulnerable groups, such as women subject to violence and abuse who needed alternative safe accommodation and support to escape abuse.

24. We did see, as predicted, not only a rise in domestic abuse but also domestic homicide. The police are currently carrying out research into the number of homicides during the lockdown that began in March last year, and initial data suggests that even BME women are over-represented in the homicide figures.

25. The burden has fallen on organisations like ours who are already strapped for cash, who already have limited resources, to fill the gap and provide the resources and the means that allow women to leave an abusive situation and seek safety. This is a huge indictment of the failure of the state to meet its obligations to the most vulnerable and to protect those at risk during the pandemic.

26. In relation to proposed judicial review reforms, I am concerned that the very legal tools by which individual women hold public bodies to account for failings in relation to protection, and in fulfilling legal obligations are being taken away. I am concerned that this government is seeking to limit the scope of judicial reviews which will mean that the state will not be able to fulfil its legal duties as it is required to do under domestic and international law because few women will be able to bring a legal challenge. I see the assault on the very mechanism of judicial reviews as part of a wider move towards the privatisation of justice. The cuts to legal aid deny the poorest who are already feeling the impact of socio-economic inequality and other forms of inequality. They now have even less access to the justice systems, less access to redress in terms of state failings where their basic material needs are not being met. The government is reviewing the scope of judicial review, ostensibly to make things efficient and

weed out 'vexatious' proceedings being brought against public bodies. Yet the evidence already shows that judicial review proceedings are not brought as often as the government likes to think they are. In many situations, just the threat of judicial review and legal action is sufficient to make institutions act more lawfully and in line with policies, procedures and good practice. The idea that judicial reviews are being misused is simply a myth and the evidence just is not there. Other tools of holding that help us to hold the state and institutions to account like the Human Rights Act 1998, are also in danger of being taken away. The government is continuously withdrawing access to justice based on this idea that somehow the law is being misused without providing any evidence to support this claim.

27. We made a submission to the Ministry of Justice which cites evidence that shows that judicial review applications in the last decade or more have gone down. We ourselves use judicial reviews, sparingly, as a tool of last resort. When all other avenues and persuasions, negotiations have failed. We also only resort to judicial reviews as a last resort because we know the cost implications of bringing such actions for organisations like ours. There are already checks and balances built into the judicial review process that make it difficult to bring them in the first place. You can only bring them where there are strong legitimate grounds for doing so and where the prospects of succeeding are at least good. We have brought judicial reviews, ourselves as an organisation or on behalf of the women we have worked with, or have intervened in judicial reviews brought by others, only where they raise issues of wider public interest. We have had very successful outcomes. They have led to improved practices and forms of governance on the part of public bodies.

28. I am also extremely worried about the impact of withdrawing people's access to justice in this way; it has particular ramifications for Black and minority women who already face considerable pressure from their families and communities to avoid the formal justice system and keep family matters in particular, private. As it is, more and more South Asian women, in particular, are being pushed into accessing community (religious) based arbitration systems, that are based on fundamentalist and conservative religious laws that are inherently discriminatory against women.

29. The resurgence of “sharia” courts, which are presided over by unaccountable conservative religious patriarchs, has led to profoundly discriminatory outcomes for women. They routinely deny women access to protection and justice. The combination of the cuts to legal aid and the resurgence of community or private based forms of justice, has created more risks and vulnerabilities for those who are already vulnerable and marginalised. The vacuum that is created by dismantling the welfare state, of which the legal aid and judicial review system is an integral part, is being filled by more regressive forms of religion acting as arbitrators of justice and as providers of welfare services that were once provided by the welfare state. Black and minority women have been in the firing line of these developments.
30. The government has recently announced its plans to separate domestic abuse from the VAWG Strategy. This is also a backwards step. It does not make sense to have a VAWG strategy divorced from domestic abuse, given that each forms part of the wider continuum of violence that women face. There is a lack of transparency as to why such a dual strategy approach has been taken. There is no evidence or sound basis for why they have made this decision. VAWG is always experienced as a continuum. There are many forms of violence and abuse that women face on the basis of their sex. It is a continuum which at one end can involve sexual harassment and everyday forms of sexism and at the other, homicide and suicide. In between there are a whole range of abuses that women and girls experience, including cultural forms of abuse such as forced marriage, and honour-based violence. On what basis is it possible to separate domestic abuse from other forms of abuse, when domestic abuse itself encompasses sexual abuse, financial abuse, and culturally specific forms of abuse? There is no logic in the ways in which this has been decided.
31. On a practical level, it is difficult to see how for example, police and crime commissioners will decide which forms of abuse a project should cater to and it should fund. It will cause confusion at a commissioning level, but conceptually it makes no sense either.
32. We fear that there will be duplication of consultations and resources. Black and minority women’s organisations like ours for instance, will find ourselves having to respond to two sets of consultations and sets of policies. It is a complete waste of time and resources.

33. Another issue is it de-links both sets of strategies or policies from a wider legal framework that should be aligned to the principles of the Istanbul Convention; a European Convention on combatting VAWG. We should have a single framework that is capable of encompassing known and emerging forms of VAWG, and which is underpinned by the principles of the Istanbul Convention in terms of non-discrimination and the promotion of equality and women's human rights.
34. The final danger in pursuing this dual strategy, is that domestic abuse will eventually be understood as a gender-neutral phenomenon. This will mean that it will be no longer aligned with the principles of the Istanbul Convention or the Convention on the elimination of discrimination against women (CEDAW). The Istanbul Convention itself makes explicit that it is a gendered convention since it is specifically about combatting VAWG, and this includes domestic abuse. Yet we have now have a separate strategy on domestic abuse which does not include a gendered definition of domestic abuse which is very much gender neutral. If you de-gender what is essentially a gendered phenomenon, you remove the understanding that underpins VAWG; that it is rooted in gender inequality. If you remove that understanding, you remove the need to tackle what is the root cause of gender-based violence, which is gender inequality.
35. This itself is a key warning sign that we are actually moving away from the principles of international law as enshrined for example, within the Istanbul Convention; how do you have a ratification of the Istanbul Convention and yet produce a gender-neutral strategy on domestic abuse removed from a wider framework on VAWG? This has implications for women of all backgrounds, but particularly for women from Black and minority backgrounds because it will make it more difficult for organisations like mine to work out which strategy we should be responding to; it will duplicate our work. It is unnecessary and it is impractical. Furthermore, it does not align with international standards on women's human rights.

36. Another issue which our organisation has tackled is the resurgence of religious fundamentalism in this country. What we have seen in the UK is of course part of a much wider global phenomenon but the impact of this is particularly devastating for women and their rights, because at the heart of all religious fundamentalist movements is the need to control women and limit access to their rights.
37. We have for example seen rising demands made by religious conservatives and fundamentalists for gender-segregation in schools, universities and other public spaces, for justice systems to be aligned with religious law. We ourselves saw the warning signs of the resurgence of fundamentalism straight after the publication of *The Satanic Verses*, and the death threat that was issued by the then Ayatollah Khomeini in Iran against Salman Rushdie – the author of the *Satanic Verses*. We understood then that the demand for his book to be banned and for the extension of blasphemy laws was not some kind of aberration; this was motivated by religious fundamentalist politics with the aim of, not just restricting freedom of expression, but restricting the rights of the most vulnerable, including women.
38. As an organisation, we have been particularly concerned by the ways in which in our communities, women are diverted away from the formal legal system, which is seen to be incompatible with religious beliefs and values. Those who define those religious beliefs and values are fundamentalists who have particularly monolithic, dogmatic, literal and regressive interpretations of religion. These interpretations are imposed on entire constituencies within minority communities which in turn has increased pressure on minority women to forgo the formal justice system as a site of contestation of their rights, and instead to use community and religious arbitration forums to resolve family disputes in particular. In such forums, women are denied their fundamental rights and freedoms and are pushed back into situations of abuse and oppression. Our submissions to various independent and government inquiries on access to justice provides countless examples of the ways in which fundamentalist interpretations of religion has led to women being reconciled with abusive partners mainly because the priority is to maintain the patriarchal family structure. Women are told that if they transgress from religious norms there will be severe consequences and

so in effect, they are silenced from speaking out and the gains that have been made to progress women's rights are in danger of being wiped out.

39. A further issue of the resurgence of religious fundamentalism is that women are being diverted away from registering their marriages and are instead pressurised into having only religious marriages. Women who come to our door are telling us that they did not understand that they would have no rights if they entered into a religious marriage only. Many enter into a religious only marriage through deception and coercion precisely so that they cannot access their marital rights following a breakdown of their marriage. Unlike the decades before us, more and more women are coming to us as a result of finding themselves in situations of abuse and marital captivity because they have no rights after their marriage breaks down.

40. I believe that where women have entered into a religious marriage as a result of abuse, coercion or deception, as in the *Akhtar v Khan* case, they should be entitled to remedies. It is not their fault that they found themselves in a situation where they can only have a religious marriage.

41. In the *Akhtar v Khan* case, Mrs Akhtar had a religious marriage only even though she repeatedly asked her husband to register the marriage. She was told by her husband that a civil registration would follow the religious marriage, but it never did. He then wanted to have a polygamous marriage, to which she refused. As a result of that, and the abuse that she experienced, Mrs Akhtar left her marriage and tried to access her marital rights in the civil courts and failed. The matter went all the way up to the Court of Appeal. We intervened in that case in support of her right and that of other women to financial remedies where they have been coerced and deceived into a religious-only marriage. The outcome of the *Akhtar v Khan* is that it has strengthened the practice of marital captivity.

42. The reality is women are being told that the only legitimate marriage is a religious marriage and are being denied the right to have a civil marriage. As a result, many are deprived of their

rights following a breakdown of marriage. This is in itself in contravention of the principles of CEDAW in relation to women's rights and the choices around marriage and divorce.

43. To remedy this situation, I believe that there should be a compulsory civil registration scheme that should apply to everyone in this country who embarks on a marriage. After which they may have whatever ceremonies they like, religious or otherwise. This is a major protective measure to prevent women, like Mrs Akhtar, from being deprived of their marital rights.

44. The second recommendation that we would make, is that when a woman has entered into a religious marriage through abuse or coercion, that abuse and coercion should be grounds for voiding the marriage. The point about voiding a marriage is that it allows women in Mrs Akhtar's type of situation to obtain a decree of nullity, which allows them financial remedies following the breakdown of a marriage. Most of these women need to access their rights following a breakdown of a marriage in order to survive abuse to be able to sustain themselves, become independent and be rehabilitated. We have made a recommendation on this and the compulsory registration measure to the Law Commission as it is currently reviewing wedding laws but we are not confident that it will take our views on board.

45. As it stands, the current marriage laws infringe on women's rights following a breakdown of marriage. In the same way that the state has enacted laws to protect women from entering into a forced marriage, we submit that there has to be measures put into place to protect women from being held in marital captivity and from being denied their rights on the breakdown of the said marriage.

46. There seems to be no underpinning of the measures, laws and policies that emanate from the state by international human rights norms. We do not see CEDAW integrated in any kind of co-ordinated or sustained way in the responses of the state to VAWG and women's rights more generally, which is extremely concerning.

I provided this witness statement over Zoom on 27/02/21.

Signed:

Dated:

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I understand that the CPT may disclose this statement consisting of 15 pages to third parties as is deemed necessary for the purposes of the CPT. I have given my consent to take part in this process and have read and signed the CEDAW People's Tribunal Consent form provided. I believe that the facts stated in this witness statement are true.

Name (Block Capitals)PRAGNA PATEL.....

I confirm that I signed this document on ...23 March 2021.....and have retained a copy for my records and returned this copy by email to CPTcallforevidence@protonmail.com to indicate that I have signed the document.