

Call for Evidence by the Justice Committee: Courts and Tribunals Bill From Support Not Separation & Women Against Rape

Who we are

[The Support Not Separation Coalition](#) (SNS, started in 2017, co-ordinated by Legal Action for Women) includes organisations of single mothers, women of colour, women with disabilities, rape/domestic violence survivors, breastfeeding advocates, psychotherapists, men and individual social workers and former social workers who share our perspective. We defend mothers and children against unwarranted separation and the devaluing of the mother-child relationship. We are in contact with hundreds of mothers and other primary carers, children, family law professionals, organisations and concerned individuals. Our publications include [Suffer the Little Children & their Mothers](#) published in 2017 and updated research published in [June 2021](#).

[Women Against Rape](#) (WAR) is among the oldest women's anti-rape organisations in the UK. We are multi-racial and we campaign for justice for survivors of sexual/domestic violence, including asylum seekers. We won the criminalisation of rape in marriage in 1991 after a 15-year campaign and have helped set legal case precedents such as the first private prosecution for rape in England and Wales. WAR is an active member of SNS.

Our evidence on the Courts & Tribunals Bill

We strongly support Clauses 8-11 (*Admissibility of Evidence*), **Clauses 12-16** (Special measures directions) **and Clause 17** (*Welfare of the Child: repeal of presumption of parental involvement*) **of the Courts and Tribunals Bill**. We are calling for these clauses to be **separated from this legislation and passed as a priority**, through alternative legislation if necessary. They are long-overdue reforms and we and others have campaigned for the for decades.

We absolutely oppose Clauses 3-5 and 7 which restrict the right to a jury trial and appeal. We are not alone – many others also strongly oppose (see [Criminal Bar Association](#) for example).

Clauses 8-11, 12-16 which benefit victims of sexual and domestic violence must be separated from Clauses 3-5 and 7 which undermine defendant rights. We **agree with MP Charlotte Nichols** who in her extraordinary and brave speech in the Commons on 10 March, said that rape victims were being used as a “cudgel” and that victims and defendants were being “pitted against each other in a way that is deeply damaging”.

The proposed restrictions of the right to jury trials and appeals are politically motivated. We believe that the repeated refusal of juries to convict defendants on trial for offences related to opposition to the genocide in Gaza or oil companies effecting climate change is driving these government proposals. The long delays which victims and also defendants suffer from (let's not forget that many defendants who go on to be acquitted have languished on remand for months and even years) are being used to justify an undermining of civil and legal rights.

1. YES to repealing the “presumption of parental involvement” from the Children Act

We support Clause 17 which repeals the legal “presumption of contact” — the assumption that children are better off if they spend time with both parents. Presumption of contact has been shown to be a key lever used by [abusive fathers](#) to continue coercive control over mothers and children, putting their safety and wellbeing at risk and even causing death.

Six years after the Ministry of Justice's "[Harm Report](#)" criticised the family courts as "sexist, racist and class biased", describing a "contact culture" that too often prioritised contact with violent fathers over the safety of women and children, the government has finally introduced legislation to abolish presumption. This is a significant victory for survivors of domestic violence and those of us who have been campaigning for this for years. The government appointed Domestic Abuse Commissioner's 2025 report Everyday Business confirmed our experience that 87% of cases in family court involve domestic abuse, but that courts dismiss it, use it against the mother and consider it irrelevant to the safety of the child.

However, we strongly object to this being introduced as part of the Courts and Tribunals Bill, which at the same time proposes to undermine the right to jury trial and appeals. The abolition of "presumption of contact" should be retained and enacted independently, so that this crucial protection for women and children is not jeopardised by association with the undermining of basic defendant's rights.

2. YES to stronger restrictions on the use of a complainant's sexual history in rape trials

Strengthening the restrictions on sexual history and compensation claims is a vital reform to ensure fairer trials. It will encourage survivors to come forward and make it easier to convict violent men (and it is overwhelmingly men).

WAR has campaigned for decades for a meaningful ban on the use of a victim's previous allegations, compensation claims, sexual history and "bad character" evidence in rape trials.

We are not the only organisation which has called for reform of Section 41 of the Youth Justice and Criminal Evidence Act 1999. The 1999 Act was supposed to restrict such evidence but has been widely criticised for falling short of what it claimed it would do. Before the Act was passed, we campaigned for all sexual history to be excluded from rape trials, other than history what was needed to explain the circumstances in cases where there had been a previous relationship with the defendant. Instead the Act allows evidence where a man claims he believed the woman consented. We pointed out that this is no protection as most men accused of rape claim this belief.

Defence teams are thus still able to rely on exceptions to introduce a complainant's past sexual experiences to show she slept around or consented in the past so she must have consented this time.

Previous reports of past rape or domestic abuse are also often used to suggest that the victim is less credible or is a serial complainer with a propensity to lie. The reality is that victims of rape and/or domestic violence are particularly vulnerable to further attacks.

A claim for Criminal Injuries Compensation is every victim's right, and we agree it should not be used as a defence smear that money is the victim's motive for reporting rape.

These practices perpetuate rape myths, violate privacy and re-traumatise survivors, turning rape trials into investigations of the victim rather than the perpetrator.

3. YES to Special Measures Directions

Yes, we agree that a victim should be allowed a ISVA or IDVA nearby when she gives evidence.

4. NO to the removal of jury trials (Clauses 3-5)

We strongly oppose proposals to remove the right of defendants to elect trial by jury in many “either-way” offences. Jury trial is a cornerstone of the justice system and an important safeguard against prejudice and discrimination.

Evidence of systemic bias within the criminal justice system underscores the importance of retaining jury trials. The 2017 Lammy Review documented racism and inequalities throughout the criminal process, and highlighted the importance of jury trials in combatting prejudice. Many legal professionals have also raised serious concerns including that removing jury trials risks placing more power in the hands of magistrates’ courts, where defendants already face disadvantages such as stricter legal aid thresholds and fewer protections. We refer to the [Criminal Bar Association’s](#) thorough rejection of these proposals. **They completely discredit the idea that these proposals will address the very long delays in cases coming to court.** They say [for example](#), that “rape complainants/victims who currently have to wait a year for their trial to be heard might see their cases brought forward by about a week.”

We can all be victims one day and defendants the next. We have sat in on domestic abuse cases where magistrates hear the case and the CPS doesn’t present the man’s history and intimidation of the woman, nor his criminal convictions for violence against other women.

In our experience, it is not juries that cause delays. It is the underfunding of courts which lack very basic facilities such as video screens that work and areas where victims can safely wait without being intimidated by their attacker. And police investigations which spend months or years scrolling through victims’ mobile devices and other social media – a basic infringement of privacy and further proof that in sexual offences cases it is the victim who is on trial.

We are strongly in favour of news reporters being allowed to sit in criminal courts. It is a crucial form of public scrutiny without which the courts can ride roughshod over justice. Family courts have been closed to the media until they were partly opened in the recent two years. This secrecy has enabled the most systemic misogynist rulings as both local authorities and judges were able to evade public scrutiny.

4. NO to restricting the right to appeal (Clause 7)

The Bill also proposes replacing the automatic right to appeal from the magistrates’ court with a permission stage. This would **weaken an essential safeguard** against wrongful convictions and unjust sentences.

Appeals play a critical role in correcting mistakes. Evidence shows that between around 8% and 14% of conviction appeals succeed in the Court of Appeal, and between 21% and 25% of sentence appeals also succeed. ([Courts and Tribunals Judiciary](#)) The Criminal Bar Association has also emphasised that the existing automatic right of appeal is **a vital protection**, noting that approximately **42% of appeals from magistrates’ courts are successful**. ([Criminal Bar Association](#))

Restricting access to appeals risks leaving unsafe convictions and disproportionate sentences uncorrected. This has a huge impact on the lives of those wrongly convicted or unfairly punished.

Conclusion

We urge MPs to:

- Retain Clause 17 – repeal the presumption of parental involvement
- Retain Clauses 8-11 – admissibility of evidence
- Retain Clauses 12-16 – special measures directions
- Oppose Clauses 3-5 – removal of jury trials for low-level offences.
- Oppose Clause 7 – restriction of the right to appeal.

Support Not Separation sns@legalactionforwomen.net

Women Against Rape war@womenagainstrape.net