

HR 14

Ymchwiliad i hawliau dynol yng Nghymru

Inquiry into Human Rights in Wales

Ymateb gan: Chwarae Teg

Response from: Chwarae Teg



## ELGC Committee Inquiry into Human Rights in Wales

### February 2017

Chwarae Teg is working to build a Wales where women achieve and prosper. We do this by working with women to broaden their horizons and build their confidence and skills, and by working with employers to create modern workplaces that gain success through harnessing everyone's contribution. We also work with influencers, educators and decision makers to build a society that values, supports and benefits women and men equally.

Equality is a human right, and discrimination on the basis of sex is illegal.

Through the Welsh, UK and European institutions, we currently have a strong framework of legislation and policies to help support the advancement of human rights and equality in Wales.

However, recent political changes in the UK have cast great uncertainty on the future of our society, both economically and socially. It's hard to predict with certainty what impact many of these changes will have on human rights and equality, as it's still unclear how the changes themselves will take shape. However, it is possible to look at current proposals and identify where rights need to be safeguarded and promoted as these changes take place.

The key messages in our response are:

- Following Brexit, the Welsh Government has a responsibility to show public commitment to not only safeguarding human rights in Wales, but to continue to lead the way in strengthening them.
- Projects in receipt of public funding should be subject to mandatory requirements around equality and human rights to demonstrate a collective responsibility for this agenda.
- It's important to ensure that the move to a Bill of Rights doesn't represent a step back in terms of equality in our society, and doesn't further erode access to justice for women.
- There's still work to be done to persuade people in Wales of the relevance of the wider gender equality agenda to day to day lives, and the need for action in individual workplaces.

## **1. The impact of the UK's withdrawal from European Union on human rights protection in Wales**

1.1 The European Union's influence on equality in the UK and Wales has happened on two levels.

1.1.1 Respect for human dignity, equality and human rights are founding values and continuing principles of the European Union<sup>1</sup>. They're therefore important considerations that run through much of the Union's work and policies, and hold an important position in the Union's Treaties. They're also mandatory requirements of European funding<sup>2</sup> such as ESF funding here in Wales.

1.1.2 The EU has also been a key driver of gender equality through secondary legislation. The EU has introduced and strengthened legislation around issues such as equal pay, part-time workers rights, parental leave and pregnancy and maternity discrimination, many of which have been transposed into UK law through legislation such as the Equality Act 2010.

1.2. In Wales, we have a duty to safeguard these rights following the UK's withdrawal from the EU. Moreover, we must also ensure that we continue to advance equality without the guidance of the EU.

1.3 Equality law is currently underpinned in the UK by the EU framework of legislation. While it is unlikely that the Equality Act 2010 will be repealed and therefore the rights it protects will be maintained following exit of the EU, the current EU framework also prevents this from happening. For example in the past, the EU framework has prevented the UK Government from scrapping some parts of the Equality Act as part of Red Tape challenges.<sup>3</sup> Following Brexit there's no guarantee that legislative frameworks will stay in place in the UK.

1.4 We therefore can't afford for the principles of human rights and equality to be undermined and devalued as we leave the EU, which could lead to a breakdown of a legislative framework.

1.5 Welsh Government must remain vigilant and shrewd to ensure that changes taking place as part of Brexit don't inadvertently impact on human rights. Moreover, they should consider strengthening the scope of legislation such as the Wellbeing of Future Generations

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<sup>1</sup> Equality and Human Rights Commission. <https://www.equalityhumanrights.com/en/our-human-rights-work/impact-eu-membership-equality-and-human-rights>

<sup>2</sup> European Commission <http://ec.europa.eu/esf/main.jsp?catId=67&langId=en&newsId=8420>

<sup>3</sup> Engender (2016) The EU Referendum and Gender Equality

Act and Public Sector Equality Duty, in order to reinforce their ongoing commitment to equality and human rights.

1.6 The FG Act is an example of where Welsh Government has led the way with innovative legislation that supports equality and human rights. It's important that we continue to lead the way following Brexit.

1.7 We would also like to see projects that are in receipt of public funding, subject to the same mandatory requirement that they were under EU funding, to demonstrate a collective responsibility to tackling issues such as gender inequality and poverty in Wales.

1.8 Finally, as negotiations progress around the UK's withdrawal from the EU, it's also important that the Equality and Human Rights agenda is not lost amid discussions of other, important topics, such as the Single Market and Migration, as they're often interlinked. We've already seen the absence of a mention of 'equality' in the UK Government's White Paper on Brexit, which could risk it being overlooked as we begin the withdrawal.

## **2. The impact of the UK Government's proposal to repeal the Human Rights Act 1998 and replace it with a UK Bill of Rights**

2.1 Human Rights and Equality are inextricably linked. Therefore, although the Equality Act 2010 ensures that discrimination on the basis of sex is illegal in the UK, the Human Rights Act 1998 also plays a role in empowering women to exercise their rights and hold public authorities to account.

2.2 The Human Rights Act incorporates the international benchmarks of human rights, set out in the European Convention of Human Rights, into British law. Repealing the Human Rights Act would not remove the UK as a signatory of the Convention, and therefore would still be subject to the same minimum standards.

2.3 However, the UK Government has stated that there will be no new rights as part of a new Bill<sup>4</sup>, instead it would potentially restrict those of certain groups such as prisoners.

2.4 The proposed UK Bill of Rights and Responsibilities takes a step away from the international view of human rights towards one that is more linked to British 'needs and tradition'<sup>5</sup>. With tradition often linked to the past, it's highly important that this doesn't reflect a step back in terms of equality in our society. This also has the potential to undermine the notion that human rights are universal and applicable to all human beings.

2.5 When it comes to Human Rights in the UK, access to justice and access to defend one's rights is an important topic. Since the introduction of tribunal fees, the number of claims

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<sup>4</sup> Fawcett Society <http://www.fawcettsociety.org.uk/blog/our-human-rights-act-empowers-women/>

<sup>5</sup> BBC <http://www.bbc.co.uk/newsbeat/article/32692758/human-rights-act-versus-a-british-bill-of-rights>

taken to an employment tribunal has fallen dramatically<sup>6</sup>, with women among the biggest losers. As one of the mechanisms currently available to women to exercise their rights, it's important that repealing the Human Rights Act doesn't represent further erosion to access to justice in the UK.

### **3. Public perceptions about human rights in Wales, in particular how understandable and relevant they are to Welsh people**

3.1 Awareness of the continued need to advance gender equality has recently increased globally due to changes in the political landscape, and largescale campaigns such as the UN's #HeforShe. However, it's often unclear how the people of Wales relate this to their day to day lives.

3.2 In 2013, Chwarae Teg's large scale research report 'A Woman's Place' discovered that there is widespread belief that there is greater equality in employment now than in the past, with 9 out of 10 employers believing there is equality of opportunity.<sup>7</sup> However, there continues to be hundreds of cases brought to tribunals alleging sex discrimination each year<sup>8</sup>. And according to the Equality and Human Rights Commission, as many as 54,000 mothers a year could still be experiencing pregnancy and maternity discrimination in the UK.<sup>9</sup>

3.3 Therefore, it's evident that there's still work to be done to persuade both employers and women of the need for action in individual workplaces, and the relevance of the wider gender equality agenda to day to day lives.

3.4 During the first half of 2017, Chwarae Teg will be undertaking research into Men's Perceptions of Gender Equality in the Workplace. The research will gather views on how men and women feel initiatives to advance gender equality affect them, and whether they're of benefit or not them as an individual. This will help paint a picture of the understanding and relevance of gender equality in the workplace within certain key sectors in Wales.

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<sup>6</sup> Fawcett Society (2015) Written evidence from The Fawcett Society in response to the Government's Select Committee investigating Courts and tribunals fees and charges

<sup>7</sup> Chwarae Teg (2013) A Woman's Place

<sup>8</sup> Ibid

<sup>9</sup> Equality and Human Rights Commission (2016) Pregnancy and Maternity related discrimination and disadvantage

## **Conclusion**

Human rights are international and universal values that shouldn't differ from person to person or country to country. 'They are not privileges to be earned or gifts that governments can give or take away at will'<sup>10</sup>.

The current rights that we have as citizens in the UK are not always recognised as the same that are being fought for elsewhere in the world, and yet unless we're careful, we could risk losing them ourselves in the future.

Currently, much of our predictions for what will happen following Brexit and the repeal of the Human Rights Act are informed guesswork. First and foremost we need clarity from Government on details of the changes that are happening. We then need a long-term commitment to upholding and strengthening human rights in the UK, as negotiations and changes are carried out, and beyond.

**We'd be happy to discuss any of the above in more detail. Please contact:**

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<sup>10</sup> Fawcett Society <http://www.fawcettsociety.org.uk/blog/our-human-rights-act-empowers-women/>