

HR26

Ymchwiliad i hawliau dynol yng Nghymru

Inquiry into Human Rights in Wales

Ymateb gan: Cymorth i Ferched Cymru

Response from: Welsh Women's Aid



Welsh Women's Aid response to Future of equality and human rights in Wales

1.1 Welsh Women's Aid is the national charity in Wales working to prevent domestic abuse and all forms of violence against women¹ and ensure high-quality services for survivors that are needs-led, gender-responsive and holistic.

1.2 Established in 1978, we are an umbrella organisation that represents and supports a national federation of 23 local independent charities delivering specialist domestic abuse and violence against women prevention services in Wales, as part of a UK network of provision. These specialist services constitute our core membership, and they provide lifesaving refuges, outreach, and community advocacy and support to survivors of violence and abuse - women, men, children, families - and deliver innovative preventative work in local communities. We also deliver direct services including the Welsh Government funded Live Fear Free Helpline; a National Training Service; refuge and advocacy services in Colwyn Bay and Wrexham; and the national Children Matter project which supports local services to help children and young people affected by abuse and to deliver preventative S.T.A.R. in every local authority in Wales.

1.3 We have been at the forefront of shaping coordinated community responses and practice in Wales, by campaigning for change and providing advice, consultancy, support and training to deliver policy and service improvements for survivors, families and communities. As a national federation, our policy work, consultancy, training and advocacy is all grounded in the experience of local specialist services and service users. Our success is founded on making sure the experiences and needs of survivors are central to all we do.

1.4 Welsh Women's Aid welcomes the opportunity to respond to this consultation.

2. Violence against women is a human rights issue

¹ Domestic abuse is the exercise of control by one person, over another, within an intimate or close family relationship; the abuse can be sexual, physical, financial, emotional or psychological. Violence against women is violence directed at women because they are women or that affects women disproportionately, and includes domestic abuse, rape and sexual violence, forced marriage, female genital mutilation, sexual exploitation including through trafficking and the sex-industry, so-called 'honour-based violence' and sexual harassment.

2.1) Violence against women is a violation of human rights. Yet here in Wales (and the UK) violence against women is still a common occurrence. The 'Is Wales Fairer' report by the Equality and Human Rights Commission² outlined that violence against women is a key challenge that Wales is facing, and evidence³ also shows that violence against women is increasing across England and Wales in comparison to other violent crime types which are decreasing. Preventing and tackling violence against women is a broad but very essential area which needs to be acted upon to ensure that human rights are protected and accessible to all women and girls.

2.2) Welsh Women's Aid advocated for violence against women, domestic abuse and sexual violence to be recognised as a violation of human rights within Welsh legislation and welcomes that this has been recorded in the *National Strategy on Violence against Women, Domestic Abuse and Sexual Violence – 2016-2021*: "Violence against women, domestic abuse and sexual violence is a fundamental violation of human rights, a cause and consequence of inequality and has far reaching consequences for families, children and society as a whole."⁴ This came after the recommendation by the Equality, Local Government and Communities Committee in the Post Legislative Inquiry into the Act, which stated that "The Welsh Government should ensure that each strategy, service, training programme and piece of guidance that is prepared or commissioned as a result of the Act uses the UN definitions of violence against women, domestic abuse and sexual violence."

2.3) Welsh Women's Aid recommends that the Committee uses this inquiry to monitor how the Welsh Government follows through in the implementation of the strategy and delivery plan, including the communications plan so that violence against women and girls is enshrined throughout in the context of gender equality and human rights abuses.

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

3.1) Women's Budget Group have noted that the EU has been a driving force against violence against women and girls across Europe, ensuring that restraining orders apply across the whole of the EU and has been central to tackling cross boarder human trafficking as well as providing funding for violence against women and girls interventions.⁵ It is uncertain whether such priorities will be secured after the UK leaves the EU.

3.2) The EU Charter has enshrined a direct and fundamental right to gender equality, Brexit is likely to remove due diligence obligations on the UK Government. The risk is that the UK Government would not establish them of their own accord because of the financial costs and there is no guarantee that gender equality law will not regress to a level below that of the UK currently.

3.3) Withdrawal from the EU will lead to the UK no longer having access to the European Court of Justice, which has safeguarded and advanced women's rights by acting as an additional layer of accountability and recourse. Violence against women is a direct result of an unequal society and further threats to women's rights will make the objectives of the Social Services and Wellbeing (Wales) Act 2016 and the Wellbeing and Future Generations (Wales) Act 2015 unachievable.

² 'Is Wales Fairer?', *Equality and Human Rights Commissions*, 2015.

³ S. Walby, J Towers & B. Francis, 'Is Violent Crime Increasing or Decreasing? a New Methodology to Measure Repeat Attacks Making Visible the Significance of Gender and Domestic Relations', *The British Journal of Criminology*, 2015, <http://bjc.oxfordjournals.org/content/early/2016/01/31/bjc.azv131.full>, (accessed 21 January 2017).

⁴ 'National Strategy on Violence against Women, Domestic Abuse and Sexual Violence – 2016 – 2021', *Welsh Government*, 2016, <http://gov.wales/docs/dsijg/publications/commsafety/161104-national-strategy-en.pdf> (accessed 6 February 2017).

⁵ 'If 'Brexit means Brexit' what will that mean for women?', *Women's Budget Group*, [website], 2016. <http://wbg.org.uk/analysis/brexit-means-brexit-will-mean-women/>, (accessed 7 February 2017).

3.4) Furthermore, funding opportunities for women's rights in the UK are likely to diminish. Many specialist violence against women, domestic abuse and sexual violence services across the UK receive direct funding from EU grants, this is likely to particularly impact Black and Ethnic Minority services, at a time when such women might be additionally subjected to increased hate crimes.

3.5) Welsh Women's Aid is concerned that withdrawal from the European Union will increase the number of women who have no recourse to public funds, as it is not clear how EU nationals and others will have access to funds to access specialist services, such as refuge, thus putting women at risk of all forms of violence against women, domestic abuse and sexual violence, a violation of their fundamental human rights.

3.6) The sharp increase in the number of racially or religiously aggravated offences recorded by the police following the EU Referendum is highly concerning. The number of offences recorded by the police in July 2016 was 41% higher than in July 2015.⁶ Hate crimes against Muslim women are estimated to have increased by over 300% following the 'Brexit' vote⁷, and many women fleeing and recovering from violence against women, domestic abuse and sexual violence, who already face huge barriers when accessing specialist services, may find themselves acutely vulnerable to racial and religious prejudices. Furthermore, UK Government policies on immigration, deportation and tackling extremism could be seen to exacerbate issues of rising levels of abuse, harassment, racism and intolerance, contributing to the danger that women who are subjected to violence against women, domestic abuse and sexual violence face.

3.7) The EU Directive on Victims' Rights established minimum standards and obligations on the rights, support and protection of victims of crime in the UK. It provided guarantees for victims of violence against women crime types to respectful treatment and recognition within the justice system and wider society, to protection, support, access to justice and compensation and restoration. Such measures are costly and there is no guarantee that the UK Government would support the rights of UK victims and survivors to the same standards as the EU.

3.8) More broadly, EU Equality Law directives reinforce such rights as equal treatment of men and women in employment, self-employment and social security schemes, as well as protecting pregnant workers' rights, rights to parental leave, preventing and tackling human trafficking, protecting victim of violence against women, child abuse, and prohibiting slavery and inhuman and degrading treatment, and many more. By withdrawing from the EU, there is no guarantee that the UK would continue to protect such rights within UK legislative frameworks and existing directives.

3.9) Welsh Women's Aid recommends that this inquiry ensures that there is a commitment in Wales to safeguard the rights enhanced by the EU following withdrawal. Further to this we would like assurance from the Welsh government that they will continue to advance women's human rights without the guidance of the EU.

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

4.1) The impact will not be measurable until the legislation contained within the proposed UK Bill of Rights is made available. However, it is possible that a UK Bill of Rights will weaken human rights protections and

⁶ H. Corcoran & K. Smith, 'Hate Crime, England and Wales, 2015/16' *Home Office*, 2016, https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/559319/hate-crime-1516-hosb1116.pdf, (accessed 7 February 2017).

⁷ 'If 'Brexit means Brexit' what will that mean for women?', *Women's Budget Group*, [website], 2016. <http://wbg.org.uk/analysis/brexit-means-brexit-will-mean-women/>, (accessed 7 February 2017).

this will adversely affect women suffering human rights violations due to violence against women, domestic abuse and sexual violence.

4.2) While the current UK Government promises that the UK Bill of Rights will protect fundamental human rights now and in the future, this will not be safeguarded to the same degree of protection as the Human Rights Act 1998, and may be subject to weakening at the hand of future governments. The Human Rights Act 1998 puts a positive obligation on public bodies to protect a person's human rights. If the UK Bill of Rights is to be as robust, these obligations must remain on public bodies. In Wales, such a move would be further strengthened by the Violence against Women, Domestic Abuse and Sexual Violence (Wales) Act 2015.

4.3) The Welsh Government has formally adopted the United Nations Convention on the Rights of the Child and has already aligned the Violence against Women, Domestic Abuse and Sexual Violence (Wales) Act 2015 with the Istanbul Convention. It will be important that these commitments made in Wales are recognised in a UK Bill of Rights.

4.4) Violence against women is a cross-cutting issue. There needs to be a clear understanding and a joined-up approach to human rights in the UK and Wales. It is not apparent that this would be achieved in the UK Bill of Rights, given the differing perspectives of the UK Government and the Welsh Government have on human rights legislation.

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

5.1) Welsh Women's Aid has spoken to focus groups of survivors of violence against women, domestic abuse and sexual violence about their perceptions of human rights. Overall they fed back that the language of human rights was not often used and there was a failure to talk about violence against women as a violation of women's rights to live free from violence or abuse. Similarly they noted that access to support and provision of services are not discussed as fundamental human rights even though the EU directive of victim's rights sets out that access to support services is a right of all victims.

5.2) In the discussions, many of the survivors used the language of human rights to talk about having no 'freedom of movement' or no 'freedom of choice' during the abuse but also in regards to the response by institutions and the availability of support. One survivor interviewed spoke about not having 'access to justice' because her immigration status was insecure and therefore she had no recourse to funds; this denied her access to justice. Survivors reiterated the statement that they felt a 'victim twice' and that institutions 'reflected inequality' in society through the lack of prioritising their support needs or enabling the abuser through failing to recognise the abuse and prioritising the abusers demands.

5.3) Survivors noted that they sometimes felt it was preferable to talk about human rights and children's rights rather than women's right because the recognition of 'women's rights would make us equal'. Survivors also raised concerns about the lack of discourse about violence as a gendered issue and the links to inequality and the social perception of women as not equal to men. One survivor spoke of being 'targeted because I am a woman'. Survivors felt it is important that discussions of human rights recognises the fact that it is predominantly women experiencing violence against women, domestic abuse and sexual violence and that this needed to be recognised as violation of women's rights. Similarly they recommended that the experience of women of violence and abuse was situated within the wider gender equality context as women's inequality both before and after experiencing abuse impacted on the resources they have to mitigate it and their right to access support.

Welsh Women's Aid would again like to thank the National Assembly for Wales' Equality, Local Government and Communities Committee for the opportunity to comment on this important issue and we look forward to working together in the near future.

Any comments or questions regarding our response can be directed to:

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