Human Rights Act / Bill of Rights consultation, response by Fair Play South West

# Introduction

Fair Play South West is the women’s equality network for the south west of England covering counties from Gloucestershire to Cornwall, Dorset and Wiltshire and the Unitary Authorities within them. We listen to the voices of women and organisations which support them and amplify these to decision makers and implementation bodies – from local to national. We campaign for change which would improve women’s lives.

We strongly support the Human Rights Act which has meant that fundamental human rights agreed by the UK through conventions at the UN and European levels can be asserted through UK courts. We agree with the independent review that the Act is basically working well and needs no significant amendment.

We are members of the national equality and diversity forum ‘Equally Ours’ and support their submission to this consultation.

This submission emphasises two issues of particular importance to women’s equality.

# Who has human rights?

We are very much against the proposal that the State should be able to declare a person as not having human rights by virtue of their behaviour. As women we are all too aware that ‘behaviour’ (even dress) has been used to undermine justice for women in cases of sexual assault, for example. History shows that the ability of a State (eg the Nazis) to declare that certain people are not worthy of rights (eg Jews, Gypsies, Gay men, trade unionists to name a few) leads to unimaginable horrors, which were in turn the impetus for defining human rights. The intent of the present Government in putting forward these proposals may well not be so extreme but there can be no assurance that a future State would not go down this slippery slope.

The basic purpose of declaring fundamental human rights is that they should apply to everyone, however deserving or undeserving – no State should be enabled under law to decide otherwise.

# Does Public Policy trump Human Rights?

We are also against the proposal that human rights should not apply where they conflict with a public policy aim. The proposals refer both to the will of parliament when laws are passed and to budget policy decisions of local government for example. This proposal undermines the whole principle of fundamental human rights which is that the State (at whatever level) should not adopt policies which prevent people from enjoying those rights. It’s a circular argument. The HRA has worked well not just in litigation to protect rights but also in pre-legislative negotiation with public authorities to change or adapt policies, so they comply. To the benefit of the individuals involved, but also others affected and public efficiency.

In general, Parliament acts as a brake on the Executive in deciding public policy and itself ensures that laws passed are consistent with human rights. But there is no assurance that this will always be the case and the HRA is an essential backstop for assessing legislation and its effect on individuals – especially women and minorities.

# Summary

We are opposed to the changes to the Human Rights Act proposed in this consultation, or its replacement with a Bill of Rights.

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