

## **Do we need a UK Bill of Rights?**

### **Commission on a Bill of Rights**

#### **Eaves Response**

##### **About Eaves**

Eaves is a London-based charity established in 1977, that provides high quality housing and support to vulnerable women. We also carry out research, advocacy and campaigning to prevent all forms of violence against women.

At Eaves, we put the needs of women first. We are determined to give a voice to the most excluded women in society and provide direct, innovative services to support and empower women to help themselves. There are different projects run by Eaves.

##### **The Lilith Project**

Lilith Research & Development have a wide remit ranging from research into various aspects of violence against women, to training and education for the women's sector, to lobbying for legislative change and to working directly with women who have experienced sexual violence.

##### **The Scarlet Centre**

The Scarlet Centre is an Eaves service providing advice and drop-in support to women who are affected by violence – including homelessness, rape or sexual abuse, prostitution or domestic violence – and the consequences of violence – including mental health and/or substance misuse problems.

##### **The Poppy Project**

The Poppy Project provides support, accommodation and advocacy for women trafficked into domestic slavery and sexual exploitation in the UK. We have 15 bed spaces and capacity for 50 outreach cases per year.

##### **The Serafina Project**

Formerly Eaves Women's Aid, The Serafina Project provides support and accommodation for women (and their children) fleeing domestic violence. We provide bed spaces in Westminster in comfortable and safe environments where a full range of support provided, including help accessing benefits and legal advice.

## **The Sojourner Project**

The Sojourner Project is a pilot scheme run by Eaves and funded by the Home Office. It is for women with no recourse to public funds, who entered the UK on a spousal or partner visa and are eligible to apply for Indefinite Leave to Remain (ILR) under the Domestic Violence Rule.

**To find out more about our work please visit our website on [www.eaves4women.co.uk](http://www.eaves4women.co.uk)**

## **Introduction**

Please note that we have opted to write general comments on our key areas of concern rather than direct responses to the questions stated on the discussion paper. Also please note that we have based our response on, and fully endorse the consultation response by the [British Institute for Human Rights](http://www.britainunited.com) and Women's Resource Centre.

## **Key Concerns**

### **Lack of Clarity on the Human Rights Act**

- The general and widespread lack of strong and robust political leadership on human rights
- Series of misrepresentations and myths about human rights by politicians and the media
- Specifically the Human Rights Act not mentioned in the Commission's terms of reference
- Lack of clarity in the discussion paper between the European Convention of Human Rights (ECHR) and the Human Rights Act (HRA)
- Lack of recognition of the positive impact of the section 6 of the HRA – which confers positive duty on public authorities to respect ECHR rights in everything they do.

### **Importance of the Human Rights Act**

As mentioned in the Commission's discussion paper itself the system in the UK is different from that of many other countries in that international treaties do not automatically become part of national laws. The parliament has to pass legislation to that effect in order for the international law, even if ratified by the UK, to be applicable in domestic courts.

Since the UK ratified the European Convention of Human Rights (ECHR) in 1951 it was long over due when the HRA was enacted in and came into force in October 2000. The enactment of the HRA meant that people in the UK could take cases about their human rights into a UK court. While previously they had to take

complaints about their human rights to the European Court of Human Rights in Strasbourg, France, which was a much more complicated and costly process.

This in effect meant that people across the UK including the most vulnerable – like women, children, minorities, etc are will be treated with respect, dignity, fairness and equality.

In the years following the enactment of the Act it has done a lot in protecting individuals from arbitrary action by public authorities enabling individuals to hold them to account both inside and outside the courtrooms.

### **The Human Rights Act**

- Makes the human rights contained in the ECHR enforceable in UK.
- Makes it unlawful for public authorities (those in central and local government, the police, the courts, etc) to act in a way that is incompatible with the ECHR and a person who feels that a public authority has acted otherwise can take the case to the appropriate UK court or tribunal.
- Confers positive obligation on public authorities in the UK to respect the rights enshrined in the ECHR.
- Requires judges to interpret legislation, as far as possible, in a way that is compatible with the rights enshrined in the ECHR. When doing so courts can strike down incompatible secondary legislation and make a declaration of incompatibility in relation to primary legislation. They cannot strike down primary legislation. This shows that the Act does not in anyway compromise the sovereignty of parliament.
- Recognising the universality of human rights the HRA covers and protects everyone in the United Kingdom, regardless of citizenship or immigration status.

### **Way forward**

- Since the commission's mandate is 'to ensure that all rights and obligations under the ECHR continue to be enshrined in UK law', as a start we recommend that the Commission acknowledges the HRA and include it in its terms of reference.
- There is no valid evidence that shows the HRA to be ineffective rather there are many examples of the usefulness of the Act so there is no need to scrub or tamper with the Act.
- If a comprehensive consultation shows there is a need to have new rights then those rights should cover new ground and supplement HRA not replace it. For instance:
  - o This could be an opportunity to strengthen legislation in respect of the rights of women. The rights introduced could focus on women and their particular circumstances.

- The rights could use the language of CEDAW in terms of tackling discrimination against women.
  - It could be also an opportunity to include socio-economic rights such as the rights to health and adequate living standard, and specific rights for groups which the international community has decided need particular attention, including the rights of women (CEDAW), children (CRC), disabled people (CRPD), migrant workers (CMW), and people from black and minority ethnic communities (CERD).
- The focus on expanding the list of human rights which are protected must not be at the expense of undermining the importance of the mechanisms for making those rights enforceable. A longer list of rights will have little meaning if they cannot be realised in the same ways made possible by the HRA. This will be disastrous for all people, especially the most vulnerable members of our society such as the women victims of violence Eaves works with.
  - The commission should state the fundamental differences between the HRA and the ECHR and what the HRA adds to our protections, particularly the section 6 duty on public bodies and domestic enforcement both within and outside the courtrooms.
  - As also stated in the discussion paper this is just a ‘preliminary’ inquiry and we hope to see further consultation; well publicised, much more accessible to the public, stakeholders, etc and detailed in terms of the formulation of the questions, a thorough background information, etc.
  - Both the ECHR and HRA clearly state that human rights are universal and inherent to all and apply to everyone equally throughout the UK regardless of immigration status or citizenship.

### **Specific benefits of HRA to vulnerable and marginalised communities and individuals**

Strength of the human rights act is that it not only prevents excesses and abuses of the state but it is the only way to protect and enforce the rights of the voiceless and marginalised. They may be suffering abuses and discrimination in their homes and communities and in a range of private relationships. This is where the proactive nature and the reach of the human rights act means that these individuals can use this instrument to access and enforce their rights.

### **Concerns around a misunderstanding of “conditionality”**

In the current political and financial climate it may be tempting to limit protection and investment from the state to those that are deemed “deserving”. This fails to recognise the fact that human rights already have inbuilt a series of checks and balances whereby rights are limited in so far as they must not infringe the rights of others. This is already inherent in the legislation, it is therefore neither necessary nor appropriate to attempt to bring in some other layer of conditionality and indeed any attempt to do so is liable to be in breach of the principles of

universality and indivisibility of human rights. Rights accrue from the fact of being human and not from being a “nice” human of a certain immigration or other status. But rights are finely balanced in relation to the rights of others.

### **Reference**

- Human Rights Act 1998
- The European Convention on Human Rights 1950
- Response to the Commission on a UK Bill of Rights Discussion Paper - British Institute of Human Rights
- Making sense of human rights – Ministry of Justice 2006
- WRC Template consultation response - ‘Do we need a UK Bill of Rights?’

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