

What About **Women?**



ELECTION 2010 - WHAT ABOUT WOMEN?

EQUALITY AND HUMAN RIGHTS BRIEFING



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1866

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Equality and Human Rights

What About Women is a coalition of over forty organisations, led by Fawcett that has come together for the General Election to ask 'what about women?'

Purpose of this briefing

This briefing gives some background information behind the *What About Women* questions on equality and **human rights**. It also includes a number of policy options from Fawcett and other *What About Women* campaign partners working on equality and human rights. Links to further information can be found at the end of this briefing along with details of our partner organisations.

Women are not a homogeneous group and the inequalities and human rights issues faced by women will depend on a wide range of factors including social class, ethnicity, age, sexual orientation, disability, religion and caring responsibilities.

The questions

Women's rights, including the right to live free from discrimination, are basic human rights which governments have a duty to protect, respect and fulfil.

- **How will you strengthen our equality legislation to ensure it makes a real difference for women?**
- **How will you protect and progress women's human rights in the UK and internationally?**

Some key issues for women

Women's human rights, including the right to equality, must be enshrined in law and respected in practice if women are to play a full and equal part in all aspects of society. Our current equality legislation is inadequate: It is failing to deal adequately with the issues such as the gender pay-gap; it fails to recognise multiple discrimination and it does not allow for adequate positive action measures at work and in public life. Although the public sector now has a duty to promote gender equality, thinking about the different needs of men and women it is still not mainstreamed into everyday practice as it should be.

In the short term the current equality bill being discussed in parliament could address many of these shortcomings in current law. But in the longer term we need equality laws with more readily available enforcement powers backed up with practical guidance. Women's rights are human rights and the UK government has a duty to protect and progress women's human rights both here in the UK and as far as it can do so in the wider world. To do this a future government must ensure that adequate domestic and international human rights laws and practices are in place that protect and respect women's human rights.

Why strengthen equality legislation?

- *It can currently take up to ten years for an equal pay claim to progress through the employment tribunal system.*
- *After nearly 40 years of equal pay legislation women still earn less than men – the gender pay*



gap is currently 16.4% for full time work.

- *30,000 women lose their jobs every year as a result of being pregnant.¹*
- *Inequality is damaging to the whole of society, not just the poorest. With a level of equality similar to Sweden, Japan or Denmark we could have an 85% increase in the proportion of the population who feel they can trust others.²*
- *Women's status is usually better in more equal countries.³*

Whilst the proposed Equality Bill could be bolder, it is an important step forward in harmonising and simplifying existing equality legislation. It will improve protection for individuals, employers, service providers and public bodies. It will also strengthen equality legislation in a number of ways that could benefit women:

- Increase government power to require reporting on the gender pay gap by employers with 250 or more employees if sufficient progress on voluntary reporting has not been made by 2013.
- Public bodies (such as Local Councils, hospitals and police forces) with more than 150 employees will be required to report on gender pay.
- Ban secrecy clauses in contracts that prevent employee's discussing their pay.
- Requiring public bodies to consider socio-economic inequality in carrying out their work.
- Enabling public bodies to use the £175 million it spends on buying goods and services each year to promote equality on grounds of age, sexual orientation, religion or belief and gender reassignment as well as on the currently permitted grounds of gender, race and disability. This will benefit older women, lesbian, bisexual and transgender women and women of different faiths or no faith.
- Allowing employers to use positive action – taking account of under-representation of a particular group, including women, when choosing between two equally qualified candidates.
- Introducing provision on dual discrimination which will protect people who are discriminated against because of a combination of factors, for example BME women or older women.
- Allowing employment tribunals to make recommendations that will benefit the employer's whole workforce and not just the individual who has taken the case.

Why protect and progress women's human rights?

The Human Rights Act 1998 (HRA) places a duty on government, the courts and all other public bodies to respect the human rights of both women and men in everything they do. It provides a vital safeguard for women's rights. It has been used by women and their advocates inside and outside the courtroom to challenge unfair decisions to remove children from their mothers, to uphold the dignity of older women living in care homes and to safeguard vulnerable asylum seeking women with little other protection and respect for their rights.

Under human rights law, public bodies have a positive duty to step in when they become aware of a potential breach of a woman's human rights. The European Court of Human Rights ruling in June

¹ *Greater Expectations: Final Report of EOC investigation into discrimination against new and expectant mothers in the workplace*, Equal Opportunities Commission, June 2005.

² Richard Wilkinson and Kate Pickett, *The Spirit Level: Why Equality is Better for Everyone*, Penguin, London 2009

³ Richard Wilkinson and Kate Pickett, *The Spirit Level: Why Equality is Better for Everyone*, Penguin, London 2009

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2009 found that Turkey had failed to prosecute adequately a man who repeatedly attacked his wife and eventually shot and killed his mother in law.⁴ This obligation on states to protect women and children from violence is seen closer to home in cases where public sector workers have been empowered by the HRA to secure accommodation for women fleeing domestic violence. It helps to promote a preventative approach towards issues faced by women as well as providing redress once violations have occurred.

Human rights laws and practice also protect women who do not fall within existing equality laws, like the millions of carers whose fundamental rights to protection from inhumane and degrading treatment and to a private and family life are put at risk when they are offered little or no respite from their caring responsibilities.

The government also already has a range of obligations and duties under the UN Convention for the Elimination of all Forms of Discrimination Against Women – CEDAW. Currently, **185** countries - over ninety percent of the members of the United Nations - are party to CEDAW. CEDAW is solely concerned with the position of women and outlines a comprehensive set of rights for women in all fields. Among other things it covers discrimination (article 1), sex role stereotyping (article 5), political and public life (article 7), education (article 10), Health (article 12) and marriage and family life (article 16).⁵ It is the only treaty which affirms the reproductive rights of women and targets culture and tradition as influential forces in shaping gender roles. As the UK has ratified the treaty it is legally bound to put its provisions into practice. The UK must submit a national report, at least every four years, on measures they have taken to comply with their obligations under CEDAW. The UK last reported to CEDAW in 2008.

As a result of the 2008 report the CEDAW committee made recommendations to the UK government for improvements in the situation of women in relation to: understanding of the principle of equality, women in prison, temporary special measures, national machinery for the advancement of women, funding for women's organisations and implementation of the gender duty, stereotypes and negative cultural practices, violence against women and girls, trafficking, political participation and participation in public life, employment, health, economic consequences of divorce and vulnerable groups of women.

The UN also reissued its call for the UK to develop a cross cutting government strategy on implementing CEDAW.⁶

The HRA has legal teeth and is applicable to all women in the UK, regardless of immigration status. Its fundamental ideals and frameworks can be used inside and outside the courtroom to empower women to challenge the state when it fails to provide adequate rights protection. The international nature and breadth of rights covered by CEDAW complements the HRA and when used with other laws and treaties these are a powerful means to protect, promote and fulfil the rights of all women in the UK.

Currently both the Labour Government and the Conservative Party are considering replacing the Human Rights Act with an alternative Bill of Rights. But this should not mean a row-back from existing levels of protection for women's human rights and it is vital that women's views should be at the heart of any debates which follow and of any proposals.

⁴ Case of *Opuz v Turkey*, Application Number 33401/02, ECHR, Strasbourg, 9 June 2009.

⁵For the full text of CEDAW see <http://www.un.org/womenwatch/daw/cedaw/text/econvention.htm>

⁶ The concluding observations of the CEDAW committee can be found at: <http://daccessdds.un.org/doc/UNDOC/GEN/N09/555/92/PDF/N0955592.pdf?OpenElement>



Policies that could make a difference

Policies proposed by Fawcett and other *What About Women* campaign partner organisations to deliver equality and human rights for women and girls include:

On strengthening UK equality legislation domestically:

- Ensure the current Equality Bill and its linked public sector equality duty is fully implemented. Ensure appropriate regulations are applied to the specific duties on gender.
- Conduct further research into the effectiveness of current equality legislation on tackling women's inequality and take action to address weaknesses.
- Promote the implementation of the European Commission's Roadmap for Equality between Women and Men (2006-2010) and the UK and the Commonwealth Gender Plan of Action (2005-2015).
- Promote the value of human rights as an umbrella under which public bodies can be confident that in meeting their equality obligations they are prioritising those women who are most vulnerable to discrimination or poor treatment.
- Specifically promote human rights as a framework to ensure that the new single equality duty fully promotes gender equality and protects vital women-only services.

On promoting and protecting women's human rights in the UK and internationally:

- Retain the current Human Rights Act as a minimum level of protection thus maintaining the vital protections and tools it provides for tackling inequality, human rights abuses and poor treatment of women by public bodies and in their own lives.
- Promote the value of human rights in empowering public bodies to protect women's rights in situations such as forced marriages when fundamental rights to private and family life are in jeopardy.
- Ensure that any proposed legislative changes increase the level of women's human rights protections and that women are fully engaged in any consultations on a new Bill of Rights.
- Implement the recommendations of the UN CEDAW Committee in their examination of the UK in 2008, including the development of a cross government plan for furthering its CEDAW obligations. Ensure the UK government reports to the CEDAW Committee in 2011.
- Support the reform of UN gender equality mechanisms with the establishment of a composite gender equality entity, commit to ambitiously fund the new entity, and agree on the establishment of an Executive.
- Support the appointment of a Special Rapporteur or equivalent high level post on and for Older Women and/or a new Convention on the rights of the Older Person which recognises gender differences.
- Make women's human rights and gender equality a priority for UK foreign and international development policy including gender sensitive work on climate change, tackling violence against women and increasing women's political participation.

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Further information and resources:

[The Fawcett Society](#)

www.fawcettsociety.org.uk

[Engender](#)

www.engender.org.uk

[Wales Women's National Coalition](#)

<http://www.wales-womens-national-coalition.org.uk/>

[Equality and Diversity Forum](#)

<http://www.edf.org.uk/>

[The UK Gender and Development Network Manifesto](#)

<http://www.gadnetwork.org.uk/storage/UK%20Gender%20and%20Development%20Network%20Manifesto%202010.pdf>

[The GEAR Campaign](#)

<http://www.un-gear.eu/index.php>

[End Violence Against Women Coalition](#)

<http://www.endviolenceagainstwomen.org.uk/m>

EVAW, Realising Rights, Fulfilling Obligations: A Template for an Integrated Strategy on Violence Against

[Women for the UK](#)

http://www.endviolenceagainstwomen.org.uk/data/files/realising_rights.pdf

[BIHR](#)

www.bihhr.org.uk

[BIHR - The Human Rights Act: Changing Lives,](#)

http://www.bihhr.org.uk/sites/default/files/BIHR%20Changing%20Lives%20FINAL_0.pdf

[Liberty](#)

<http://www.liberty-human-rights.org.uk/>

[National Alliance of Women's Organisations](#)

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Links to further information and resources can be found on the *What about Women* pages of the Fawcett Society website www.fawcettsociety.org.uk/whataboutwomen