

Scottish Women's Convention response to:
The Fawcett Society's Sex Discrimination Law Review
May 2017

The Consultation

In response to the risk that long-established rights could be eroded or weakened as a result of Brexit and the UK leaving the EU single market, the Fawcett Society launched a review into these concerns. The review will also consider the effectiveness of the current laws and how best to balance the rights of the individual with the responsibilities of the organisation. The second panel session, on May 16th, will focus on Violence Against Women and Girls (VAWG); Harassment (including on the internet and social media); Hate crimes and its limits.

The Scottish Women's Convention (SWC)

The Scottish Women's Convention (SWC) is funded to engage with women throughout Scotland in order that their views might influence public policy. The SWC uses the views of women to respond to a variety of Parliamentary, Governmental and organisational consultation papers at both a Scottish and UK level.

The SWC has been consulting with women on issues which are important to them around Scotland's relationship with the EU. There is a degree of uncertainty, particularly with regard to the potential loss of rights that may occur for women when Britain finally does leave the EU, as well as Scotland's position within that process.

The Scottish Women's Convention (SWC) believes that a strong gender focus is necessary when considering the impact of Brexit. Many of the legislative and policy decisions to eliminate VAWG are implemented through the power of Europe. There are, therefore, real concerns around the future of these. The majority of those who voiced their concerns want further clarification around the process, as well as specific issues about particular areas of policy and legislation. Words such as "*uncertainty*", "*fear*" and "*anxiety*" were common.

"Women are the cornerstone of communities – both socially and economically. Their voices and concerns must be a key focus of this process."

Question 1:

What are the rights you want to protect?

Women in Scotland are proud of the gender-based definition of violence used by the Scottish Government. This recognizes that VAWG is both a cause and a consequence of fundamental gender inequality. The clear commitment by the Scottish Government to tackle VAWG is welcomed by women throughout the country. The implementation of policy and practices, such as 'Equally Safe', the National Group to Address Violence Against Women and the creation of the Caledonian System, are all important steps towards the eradication of abuse.

The main priority outlined by women was undoubtedly ensuring that the range of rights brought about by membership of the EU - such as equality, employment and human rights, are maintained and built upon following the UK's exit. Worries over the potential impact on European legislation that an exit may imply was common.

The concern expressed around the idea of what leaving the EU will mean for the protection of human rights was frequently alluded to. The European Convention on Human Rights (ECHR) is enshrined in domestic law through the Human Rights Act 1998. The current UK Government's manifesto commitment to repealing this piece of legislation and replacing it with a 'British Bill of Rights' has raised a number of issues. There is a feeling amongst many women that this is even more likely to happen following the EU referendum result.

"There are big concerns around human rights and equalities. We have struggled to get to where we are now. It would be terrible if this was lost because we are being forced to leave the EU."

Whilst the ECHR is a separate force from the likes of the EU's charter, the implementation of Brexit and establishment of the supremacy of the UK Supreme Court has led to many women questioning how exactly their rights will be protected from what is often seen as the progressivism of the EU's laws defining human rights.

"Even though technically Brexit doesn't mean we are outwith the protection of the ECHR, there's still a worry that our protections will be eroded as a result of the vote. Human rights are universal and guarantee every citizen's most fundamental freedoms. This cannot be forgotten."

Pre-Brexit, some MP's called for a scrapping of the 1998 Human Rights Act as well as the 2010 Equality Act, both of which protect from discriminatory treatment as a result of gender inequality. Numerous women have voiced fear regarding the idea that doing away with this legislative protection could become a real possibility once the United Kingdom leaves the EU.

"The result is raising anxieties and fears amongst families."

Loss of access to the European Courts of Justice (ECJ), for example, means no opportunity to challenge rulings at a UK level. There is mounting concern around issues of European case law, which may not be relied upon when the UK leaves Europe. These court decisions are often used to challenge judgments made in the UK. Citizens may lose the opportunity to rely on this additional support.

“I feel frustrated, fearful and helpless. We’re already seeing a rise in hate crime and the normalisation of racism. The decision will have an impact on the opportunities and decisions of young people in the future.”

Currently, Britain’s place within the EU means that crimes across borders such as trafficking can be dealt effectively across European borders. Elimination of these vital rights derails from a European strategy and may lead to an increase in VAWG within the country.

“If there is no obligation for these important measures to be adhered to, there’s a real possibility that the UK Government won’t see fit to do anything to ensure they’re being carried out domestically. If this happens, it will be a step back in time for women’s rights.”

Question 2:

Where are the gaps in our legislative framework?

Women have voiced concerns to the SWC that if spaces are left in the law post-Brexit, the UK Parliament is under no obligation to fill these in order to protect fundamental human rights. In order to guarantee that women are not disadvantaged, a strategic cohesive framework that encompasses all efforts to protect from VAWG in a coordinated manner is important to ensuring this is a main priority.

Sex, for instance, is not enshrined within current hate crime legislation as a protected characteristic. VAWG is a cause and consequence of gender inequality and should be deemed as such within law. This problem becomes heightened significantly in relation to other minority groups such as BME women where cultural barriers may impose stronger traditional gender roles and may include Female Genital Mutilation (FGM). In order for these barriers to be overcome, the SWC wholeheartedly agrees with enshrining gender as a protected characteristic within UK law in order to take a step forward in eliminating VAWG.

“Everyday language must change.”

The SWC believes that current gaps should be addressed within legislation highlighting the many forms that VAWG can take. Laws should be enacted, for example, concerning commercial sexual exploitation (CSE) as a major form of gendered abuse. Despite the Scottish Government’s condemnation of this, there is a sufficient lack of policy surrounding it across the UK. Without this, women are at a severe disadvantage for an upholding of their basic human rights.

“Many people don’t associate prostitution with violence against women. We must be explicit about the violence used”

The SWC believes that the measures contained within, for example, the Prostitution Law Reform (Scotland) Bill (which was proposed in a private members Bill in 2015), seek to normalise prostitution, and therefore VAWG overall. While the SWC accepts that there are women working in the sex industry who are there by choice, the majority sell their bodies as a last resort. They are forced into prostitution as a result of chaotic lifestyles and a vicious cycle of poverty, deprivation and inequality. Instead of attempting to make working in the sex industry a legitimate and viable career choice, efforts should be focused on providing help and support for women to exit prostitution.

“Don’t assume MSP’s and MP’s know about this subject.”

Women throughout Scotland have spoken of their concern that whilst recognised as a form of VAWG, no laws relating to this have been established. Many have noted the lack of education and information around this as a form of exploitation where a woman is so desperate she can be bought for sexual gains. For far too long the focus has been on those who sell sex. Women are convicted of crimes relating to prostitution, for example soliciting, which are often punishable by a fine. Inability to pay these fines results in imprisonment and removal from family and support networks, which leads to the establishment of a dangerous and vicious circle.

Particular concerns surrounding the likes of the coordinated efforts that exist at present across European borders to counter crimes such as human trafficking have been highlighted as posing a major danger for women when Britain leaves the EU. Criminalising the purchase of sex should be a priority and debated as such in Parliament following EU withdrawal in order to give women basic human rights.

“People do not associate sex trafficking and prostitution with Scotland and the UK.”

The SWC believes that any potential changes in legislation which would decriminalise the purchase of sex, rather than being a way to advance equality, will have the opposite effect. If such proposals came to pass, working in the sex industry would be considered a genuine form of employment as opposed to a cause and consequence of gender inequality. Allowing these proposals to become legislation would be the first step on a slippery slope towards women’s rights being pushed further back. This would be extremely harmful to the advancement of gender equality post-Brexit.

Women have also voiced concern over a lack of legislation concerning the increased sexualisation of young girls. The media has a huge role to play in the prevention of VAWG. There is continuous use of sexualised images in advertising, which promote the idea of the female body as nothing more than a commodity. In order to highlight the risk of this form of gender inequality as a form of abuse, more needs to be done by both the UK and Scottish Government to regulate the media’s methods of communication products to society. Tougher restrictions should be in place guaranteeing how women are portrayed within adverts.

“I fail to see why big companies think showing women as nothing more than sexual objects is a sensible way to advertise their products. The sad thing is, this is now so normalised and accepted that people don’t get offended any more – they’re so used to seeing this type of image. Yet women who attempt to breastfeed in public are subject to abuse.”

The increased use of social media perpetuates views of how young women should look and act. It also allows anonymous comments and images to be posted of impressionable and vulnerable people. This is having a detrimental impact on young women.

“It’s difficult to have a private life and do something innocent such as taking a picture when people play their lives out through social media. Sadly, you can’t trust that other people will use the picture in the way you intended to.”

Whilst the Abusive Behaviour and Sexual Offences (Scotland) Act, 2016, covers the sharing of revenge porn, there are still gaps within legislation which need to be filled. For example, “trolling” online over social media is not specifically covered as an offence in law. Failure to see this as unacceptable behaviour which at present can go unaccounted for allows perpetrators to escape justice. Furthermore, it directly disadvantages many women who have witnessed firsthand the negative effects that these threats of abusive and intimidating language has had on their mental health.

Moving forward, Government at both a Scottish and UK-wide level, must seek to address gaps that exist concerning VAWG post-Brexit. With the loss of the ECJ and fear of an erosion of human rights legislation, there is a great deal to be done to combat gender inequality in a rapidly-digitalising world.

Question 3

What works well now? What doesn't work well?

One of the most fundamental factors to bear in mind post-Brexit in terms of the elimination of gendered abuse is in educating both men and women from a young age on the seriousness of this issue. The SG is implementing Equally Safe, Scotland's strategy to tackle all forms of VAWG. Central to the SG approach is primary prevention of violence, which seeks to change attitudes and tackle inequality.

The increased sexualisation of young women is an example of gender inequality which both causes and stems from VAWG. Pressure to conform, commercialism and social media are all contributing factors. Many have spoken about the difficulties in challenging stereotypical and unrealistic images presented in the media, as well as peer pressure to conform. The increased use of social media perpetuates views of how young women should look and act. It also allows anonymous comments and images to be posted of impressionable and vulnerable people. This is having a detrimental impact.

“Guys watch porn and think that's how girls will act when they actually do have sex. It's a completely distorted view of how things are.”

The media has a huge role to play in prevention of VAWG. The proposed strategy must recognise this. The continued usage of degrading women in the media at all levels is responsible for a large part of the normalisation of the detrimental image of females as sexual objects. More must be done to recognise and tackle this vital issue in order to stop gender being a main factor in sexualisation.

“We need to challenge the media on the images they portray.”

Detrimental language towards women is also common. Many of the behaviours which are various forms of VAWG are accepted as “normal”. Women have voiced concern that legislation, and indeed wider society, often see violence in purely physical terms, failing to understand the range of behaviours such as emotional and sexual which also fall under the definition. Prevention work carried out in schools around issues such as domestic abuse and sexual violence is also very important. Again, however, awareness on wider VAWG issues needs to be raised at this level.

“People use words like ‘bitch’ and ‘whore’ as insults. Nobody seems to realise that the more they say these things, then the more it's deemed acceptable for women to be called them.”

Similarly, a major concern women have discussed centres around the issue of quality sex education for young men and women. The increase in young people's access to pornography often leads to internalised attitudes about how to treat women in a derogatory and sexually violent manner. It shows a significant failure on the part of government to ensure the right information is passed to children regarding the likes of consent and respect. The "Equally Safe" strategy has promised to provide an increased emphasis on the education of children concerning these issues. This should be implemented at a UK wide level.

"We need to provide evidence on how sexual exploitation affects everyone in society."

Introduction of information about the dangers of society's views towards women is welcomed. This would allow the difference in attitudes between boys and girls around sex to be explored. Gender studies should be made widely available through school education programmes. Assistance from the third sector may be a way to address this, however many organisations which could help are too often underfunded. In school, subjects which may contribute to education on these issues are often suffering in budget cuts, particularly because of the focus on attainment.

"I think targeting young boys is the way forward. If you asked them about women and prostitution or commercial sexual exploitation, they probably wouldn't know much about it. If, however, you asked if they would be happy if it was their sister/aunt/mum then it might put it into perspective."

Any strategy, going forward, must factor in prevention work which needs to be undertaken with young people. Both young men and young women need to be educated on and given the opportunity to talk about issues around sexualisation, access to pornography etc. Instilling in them the dangers of these at a young age would raise awareness and go some way to preventing instances of VAWG.

Question 5

We also want to hear from individuals who have experienced discrimination or harassment. Has the law worked for you?

One of the main issues highlighted by women in regards to Brexit is concern over how the absence of EU protections to combat VAWG will be addressed by the UK Government. There is real concern that the current economic climate, in which families are struggling to make ends meet due to job losses, pay freezes and the ever-increasing cost of living, will result in more women becoming victims of violence and abuse with little or no protection.

A number of important issues have been raised, for instance, over fears that specialist services in place to aid victims of VAWG will have limited provisions due to a loss of European funding. The value of these services is undeniable. The provision of refuge accommodation, as well as assistance with applications for housing, welfare benefits and other support mechanisms allow women to recognise, survive and exit abusive relationships. VAWG services allow women and their children to move forward with their lives. Funding for VAWG services should continue and should under no circumstances be cut, despite tightening budgets across the public and voluntary sectors.

"I wouldn't be where I am today without the support and assistance I've had from these services. They saved my life."

In addition, it is recognised that more barriers exist for BME women who seek to access VAWG services. Issues such as a lack of trust or uncertainty around organisations often prevent those who have experienced violence from accessing help and support. Following Brexit, the increasing toleration within society of racism and anti-immigration views has been highlighted by women. It must be recognised that these views will not be accepted, alongside the dangers that these attitudes can have on increasing the risk of violence and abuse experienced by BME women.

Help and advice can be complicated by language barriers and a genuine fear that cultural sensitivities can be misunderstood or misinterpreted. Women who do not speak English as a first language are at a “*double disadvantage*”. For example, the use of hand gestures or varying voice pitches to explain a point can be viewed by male translators, GPs etc as hysteria or instability. These methods of expression are often common within certain cultures.

“More female translators or women who understand cultural sensitivities on hand to help in these circumstances are vital.”

One of the major concerns highlighted by women is the rise that new forms of VAWG can take in an increasingly digitalised world. Young women have talked about the sharing of intimate and explicit images, as well as the impact this can have. Discussions have taken place around how quickly an image can spread and the backlash often faced by the women who find themselves in these situations.

“When this happens to girls we get called ‘sluts’ and ‘whores’ and it’s our fault, even though all we did was let someone we trusted take a picture in what we thought was a safe environment. There are absolutely no repercussions for the guys who think it’s all ‘lads banter’.”

The SWC has also consulted directly with women who have spoken of the impact revenge porn has had on them.

“My ex posted topless pictures of me on a website, along with details of my Twitter and Facebook accounts, the town I live in (which is a small town) and where I work. I have never been so embarrassed in my whole life. I could have lost my job, but thankfully my employers were extremely understanding. That didn’t stop the whispers and rumours going round the office though. People would stop my parents in the street and talk to them about it. It got to the stage where I didn’t even want to leave the house. Meanwhile he was walking about completely scot free because there was nothing the police could really do about it.”

This increase of so-called ‘revenge porn’ is having a significant impact on women. The use of various forms of technology and social media, particularly amongst young people, means that images can be anonymously shared to many in a very short space of time. Whilst a specific offence of disclosing, or threatening to disclose, an intimate photograph or film, is currently disclosed under Section 2 of the Abusive Behaviour and Sexual Harm (Scotland) Act, 2016, this is not enough. Enactment of legislation which places these under specifically gendered hate crime legislation would ensure perpetrators are brought to justice and illustrate the victim-centred response that is taken.

Conclusion

The SWC welcomes and fully supports the Fawcett Society's review of the impact that Brexit may have on laws pertaining to VAWG. The creation of domestic laws which encompass offences not already enshrined within legislation, including social media and commercial sexual exploitation as forms of VAWG has the potential to afford not only justice to more women, but also safety and security for them and their families. Reminding the UK Government continuously about the loss of security for many women post-Brexit and how this must be compensated is fully endorsed by the SWC.

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The Scottish Women's Convention engages with women using numerous communication channels including Roadshow events, Thematic Conferences and regional contact groups. This submission paper provides the views of women and reflects their opinions and experiences in a number of key areas relevant to mental health in Scotland.

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