

Focus on women

Issue 3 Autumn 2005

The Government continues to propose new legislation at a relentless pace. In this third edition of our policy newsletter, we examine some of the implications of proposed Bills particularly from the perspective of women. We hope you find the content both useful and informative. As always we welcome your feedback or comments. Normally, these should be sent to Heather Beckwith, our Policy Officer. However, as Heather is about to commence maternity leave soon, please send these to info@row.org.uk instead. Further information about our work and resources are available on our website at www.rightsofwomen.org.uk.

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The Racial and Religious Hatred Bill

The Racial and Religious Hatred Bill creates a number of new offences, one of the most significant of these being “stirring up hatred against persons on religious grounds”. The Government has stated that one of the main reasons for the introduction of this Bill is that there has been an increase in the number of people engaging in activities which stir up hatred.

As the present law stands, certain specified religions are protected whilst other religions have no form of protection from racial hatred. The fact that Jewish and Sikh people have a distinct ethnic origin has been used to distinguish them from other religions and offer them this protection. However, this has led to calls for all religions, regardless of whether they have a distinct ethnic origin or not, to be treated in the same way.

What the new Bill proposes

This area of law is at present governed by the Public Order Act 1986. Within that Act there exists the criminal offence of “incitement to racial hatred” which this new Bill is looking to expand upon.

Under the provisions of the new Bill, it would be an offence for a person to knowingly use threatening, abusive, or insulting words or behaviour with the intention or likelihood that they will stir up hatred against a group of people based on their religious beliefs. Obviously, people of all races have freedom of choice regarding which religion they follow. This new offence would therefore cover people of all races as it would be based on a person's religion rather than their racial origin and not just those religions where there is a distinct ethnic origin.



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What are the effects of the new Bill if it becomes Law?

There have been numerous concerns voiced about the effect that this Bill could have on our individual rights to freedom of speech and expression.

First impressions of the Bill are that it appears to curtail individuals from expressing their own individual and personal views and/or opinions about any religion, for fear of prosecution. Many people do not think the Bill is needed or necessary and that there is already sufficient legislation in place to protect people of all religions.

There is concern that people will be wary about asking questions about a particular religion in case that is seen as offensive.

The question has also been posed as to whether comedians would be at risk of prosecution if they made a joke or remark about someone's religion? The Government has said that there will be a number of acts which by themselves would not be an offence and this included jokes about religions.

Some examples of acts of incitement

- An extreme racist organisation distributing leaflets or materials which contain insulting and/or inflammatory reasons for hating Islam.
- Faith leaders using abusive, insulting and inflammatory language at speeches and lectures, which would knowingly be recorded and subsequently sold, therefore deliberately designed to reach a wider audience and possibly stir up religious hatred amongst many.

In light of recent events across the world and in the UK, many Muslim groups in Britain had called for some form of legal protection for their faith. There has been a significant rise in "Islamophobia" which has spread across the country. It is hoped by many that this Bill will offer the very protection that is being sought, not just to Muslims, but also to Christians and all other religious groups. In addition to this it will also protect people who are targeted because of a lack of religious beliefs (ie atheists).

It is important to note that the Bill is to be used to protect the believer of the religion and NOT to protect the religion itself.

However, on the other side, many people will want to know how this affects their freedom of speech. For instance, if a woman spoke out against or criticised a particular religion or even her own religion because it condones stoning a woman to death as a punishment for alleged infidelity, could she be imprisoned? Would it be illegal for women to speak out about the inequality which exists between men

and women in a certain religion? Would it be illegal for a lesbian mother to argue against religions which claim it is wrong for a lesbian to have a child and that lesbianism is itself an anathema?

The Bill seems to create an unjustified limit on freedom of speech although the Government has stated that the offences will not apply to anything that takes place in your own home and that the offences will carry a high threshold to protect freedom of speech.

The question has been asked why is the Government trying to pass legislation which will make it a criminal offence to criticise another's religion or lack of it? As adults, should we not be able to hear all arguments and debates regardless of their content and choose for ourselves what we want to believe? Freedom of speech also enables open debate to take place on matters which may in fact be controversial.

Without a clear definition from the Government as to what actually constitutes an offence, this legislation will be extremely difficult to implement and for people to be prosecuted under. Although most would agree that having a law which prevents incitement to hatred based on religion is welcomed, many more people believe that it should still be possible to openly criticise a religion (whilst not criticising those practising that religion) and challenge certain aspects of that religion. This is what living in a democracy is about. Every individual is entitled to have and hold an opinion and that is all it is, an opinion. Simply because you do not agree with something said or take offence to something said should not necessarily be prevented by legislation.

Many of the groups which the Bill sets out to protect are actually objecting to the Bill. This is because the Bill is still very vague in places eg there is no definition of "religion". This means that these very groups could be at risk of prosecution due to their conflicting beliefs with other religions and their desire to speak out about their beliefs.

Religious hatred will not simply disappear because it is not spoken about. It will still exist regardless of whether an offence is created by legislation. It may indeed be preferable to know what is being discussed so that constructive debate can take place prior to the escalation of violent crimes and offences being committed.

The Equality Bill

The Equality Bill was introduced into the House of Lords on 18th May 2005. There are 3 main sections of the Bill. They are as follows.

- Establishing the Commission for Equality and Human Rights (CEHR). This will merge the three existing Commissions (Commission for Racial Equality, the Disability Rights Commission and the Equal Opportunities Commission), into one.
- Making it unlawful to discriminate on the grounds of religion or belief or lack of religion/belief [in the provision of goods, facilities and services, the disposal and management of premises, education and the exercise of public functions].
- Creating a duty on public authorities to promote equality of opportunity between women and men AND to prohibit sex discrimination in the exercise of **public functions**.

Rights of Women's concern is that by creating the CEHR, there is a real possibility that this will effectively decrease the amount of funding and attention given to sex equality issues compared with other equality strands, such as race and disability. We would like assurances that the CEHR would be adequately resourced to carry out ALL its functions and duties efficiently, effectively and to the required standard.

What difference will this Bill make to service users and women working in the public sector?

Public services and the public sector include important aspects of everyday life for women, such as transport, education and health services.

The role of women in society is still very different from that of men. Women are still responsible for the majority of care duties for their children and/or dependent, ill, or elderly relatives. In addition to this, women also tend to do the majority of home care work and therefore are the ones in the household who work part time resulting in lower pay and a reduced pension.

For reasons such as these, the needs of women are very different from those of men. Women require different things from public services. However, many public services do not currently acknowledge these differences or look at these differences and it is partly this which the Equality Bill is seeking to address.

For those women who actually work in the public sector, the effect of the Bill will be seen in areas such as how employers employ their staff. Under this Bill, public bodies would have to look at for example having systems set up which enable women who are

carers more support in the workforce; they may have to look at how they conduct reviews to ensure their pay systems are fair and if discrimination is found, how to address that discrimination.

The Equality Bill will legislate for a general duty which will require public bodies

- To promote equality of opportunity and
- Not to unlawfully discriminate

between women and men when carrying out their service functions.

The Equality Bill is intended to operate alongside the Sex Discrimination Act (SDA) and inserts new provisions into the SDA. This means in certain limited circumstances, it will still be lawful for a public body to limit posts to a specific sex in recruitment, training, promotion and transfer of the job for which the sex of the worker is a genuine occupational qualification (GOQ), and this section will continue to operate after the Equality Bill is passed.

The Bill will also allow certain obligations to be placed on public bodies to help them fulfil their responsibilities under the general duty.

How is this Bill different from the Sex Discrimination Act 1975?

The SDA does not stop the actual discrimination from taking place. The SDA only comes into operation after the event.

As the Equality Bill will be imposing a duty on public bodies to promote sex equality, this should in theory, help to get to the source of the discrimination before it actually happens.

As a result of the Bill, public bodies will have to avoid sex discrimination in the exercise of *all* public functions (except where an exemption is provided) including functions such as service delivery, policy-making and administrative functions.

The Race Relations (Amendment) Act already ensures that public bodies have a duty to promote race equality; a disability duty is included in the Disability Discrimination Act so there seems to be no reason why there should not be a similar duty introduced for gender equality. It is unclear whether transsexual and transgendered people will be covered by the entire duty set out in the Equality Bill, as presently, part of the Bill still only refers to women and men.

Although no exact date has been given, the new Bill is likely to come into effect around December 2006. The onus will then firmly be placed on public bodies to show that they are treating both men and women fairly.

Turning Back the Clock on Women's Abortion Rights

The current UK abortion law is based on the Abortion Act 1967 and section 37 of the Human Fertilisation and Embryology Act 1990, which reduced the time limit from 28 weeks to 24 weeks. Unlike in most other European countries, women do not have abortion on request, abortion in the UK is only allowed under certain restrictive criteria and only with the agreement of two doctors. In addition to the legal restrictions, women face serious obstacles in accessing abortions services: anti-choice GPs delaying or refusing to refer women as well as insufficient NHS provision and long waiting times (up to eight weeks in some areas) mean that access to abortion is not guaranteed and can be difficult.

Yet, despite these existing restrictions, the Abortion Act is being challenged by a Member of Parliament who seeks to further curtail women's reproductive rights. Laurence Robertson, Conservative Party MP for Tewkesbury, drew number 20 in the Private Member's Ballot last May and is using this opportunity to introduce a Bill in the House of Commons to criminalise abortion. If successful, the Prohibition of Abortion (England and Wales) Bill would outlaw all abortion except to save the mother's life or in a case of rape. It would thus become an imprisonable offence for anyone to carry out an abortion in any other circumstances.

Recent polls show that a woman's right to choose is supported by 76 per cent of the British public¹ and, although it is unlikely that such an extreme Bill will find much support in the Commons, it will inevitably re-ignite the abortion debate. The anti-choice lobby, which opposes all abortion, has promoted disproportionate and sensationalist focus on the issue of late abortion in an effort to win support for an incremental erosion of current legal rights in the form of a reduction of the upper time limit.

In fact, the vast majority of abortions – 88 per cent – are carried out in the first three months of pregnancy and less than 2 per cent are carried out at 20 weeks or over². Women who seek late terminations do so due to extremely difficult and unusual circumstances and never take the decision lightly. Any further restrictions on women's current reproductive rights, whether a reduction in the upper time limit or a complete ban, would force thousands of women to either continue with pregnancies against their will, or, seek unsafe, illegal abortions, which would result in countless deaths. Around the world, approximately

70,000 women die every year as a result of unsafe back-street abortions.

Robertson's Bill serves to highlight how extreme the minority anti-abortion lobby is and how little concern they have for women's health and lives. It is also a chilling reminder that women's abortion rights remain under constant threat. Abortion Rights³ is currently campaigning to ensure the Bill defeated on its first hearing in Parliament on the 21st October.

Please visit www.abortionrights.org.uk for details of Abortion Rights latest campaign initiatives.

1. ICM Poll (2004) 'State of the Nation', Joseph Rowntree Reform Trust Ltd.
2. Summary Abortion Statistics, England and Wales: 2003 (2004). Government Statistical Bulletin 2004/14
3. Abortion Rights is the only abortion focused pro-choice campaigning and advocacy organisation in the UK

Sexual Violence Legal Advice Line and our Related Publications

At Rights of Women, we decided that opening a dedicated telephone sexual violence legal advice line was essential due to the closure of the London Rape Crisis Centre and the lack of groups dedicated to giving advice in this area. As far as we know, we are the only organization providing such a service to women in England and Wales.

The advice line service is being funded by London Rape Crisis Centre and City Parochial Foundation.

Our confidential advice line service is open on Mondays between 11- 1pm and Tuesdays between 10- 12 noon. The advice line number is 020 7251 8887 or 020 7490 2562 (text phone).

The advice line provides information and advice in relation to sexual violence and the criminal law.

This is a women only service for individual women and second tier organisations in England and Wales. Please do not hesitate to call us during the hours of the advice line sessions if we may help you in any way.

We also publish a number of publications in relation to sexual violence. We have produced a detailed handbook called *From Report to Court, A handbook for adult survivors of sexual violence*. This was

published in conjunction with the Home Office and is essential reading for anyone going through the police/court process or anyone who wants to be informed about the processes in order to make an informed decision. The handbook is available in A4 or A5 size. Having now received additional funding from the Home Office, we are currently translating the handbook into five different languages; French, Punjabi, Simplified Chinese, Spanish and Somali. These translations will be available for downloading from our website at www.rightsofwomen.org.uk by the end of the year.



We have also published *A Guide to Sexual Violence* the first in our series of information sheets regarding issues related to sexual violence and the criminal law. This leaflet is available on request. Look out for our other information sheets, *Dealing with the issue of Consent* and *What is Sexual Assault?* which will be available by

Christmas. Other information sheets with advice on these areas of law will be available in the New Year.

Sharia Law – Update

We featured an article in our previous newsletter called “Canada and the Proposal to Introduce Sharia Law”. At that time, the State of Ontario had postponed their decision as to whether to implement a motion in Ontario which would allow Muslims living in Canada to utilise Sharia Law alongside the Canadian Law in certain family law issues.

However, following an announcement on 11th September 2005, the Ontario Premier Dalton McGinty has said that Ontario will now reject the use of Sharia Law and will move to prohibit all religious-based tribunals to settle family law disputes.

There had been numerous demonstrations and protests worldwide against the introduction of Sharia Law. There was a clear feeling that many people did not feel religion should interfere with the justice system and a clear separation should be made between religion and State.

Rights of Women is extremely pleased about this outcome. The interpretation of Sharia Law can vary from State to State and we believe the equality of women depends on having legal systems that deliver justice to all.

Legal Representation in Rape Cases – Update

Prior to the May 2005 General Election, the Labour Party pledged that certain victims of serious crimes would be given their own lawyers to represent them in court. These would include victims and survivors of rape. However, the Government has back tracked on this pledge and has stated that rape victims will no longer be eligible for their own barrister in the pilot of this project. The “victim’s advocate” pilot will now only be available to relatives of murder and manslaughter victims.

In plans unveiled by a Labour party spokesperson before the election, it was proposed that advocates in rape cases would have been able to represent the victim in court cases, advise the victim and/or their families about the case, explain court procedure and even possibly object to a defence lawyers tactics regarding questioning a victim. As the present law stands, victims of rape do not have lawyers representing them, as rape is defined as a crime against the Crown rather than against the individual. Therefore, the Crown has a lawyer (Crown Prosecution Service) and the defendant has their own lawyer. However, the person whom the crime was committed against has nobody, as they are “simply” a witness for the Crown’s case.

Despite the clear benefits that having such a scheme may bring, the Department of Constitutional Affairs(DCA) has decided that the pilot will not be extended to rape victims at this present time. The DCA has said that this will not rule out the possibility of rape victims having access to their own barrister at a later date, but that this debate will form part of a consultation about such reforms.

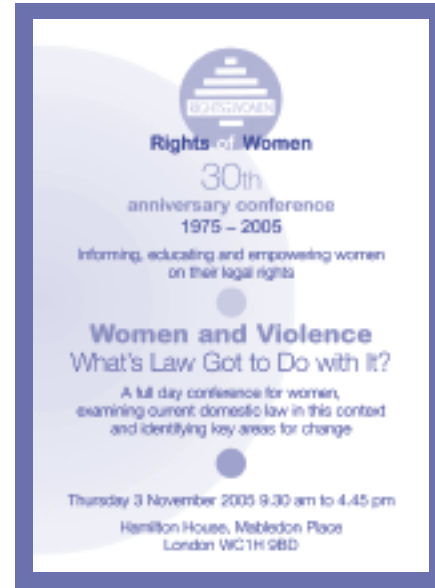
Rights of Women is very disappointed at these developments. With the conviction rate for rape as low as 6%, we believe that this proposal if implemented would have made a huge difference to women survivors of rape and it would have served as an indication of the Government’s determination to address this particular form of violence against women. We will continue to press for this measure to be introduced.

The Noticeboard

Rights of Women will be holding its 30th anniversary conference on Thursday 3rd November 2005, 9.30am to 4.45pm.

The conference entitled *Women and Violence – What’s Law Got to Do with It?* is a full day conference for women examining current domestic law in this context and identifying key areas for change.

Full details of the conference including the Conference Programme and Delegate Booking form can be downloaded from our website www.rightsofwomen.org.uk or requested from our training officer, Kathy Francis by phoning her on 020 7251 6575/6



Consultation papers

There are a number of recent consultation papers published by the Government to which Rights of Women has been invited to respond. Below, find listed those papers to which we intend to respond or have already done so. Copies of our consultation responses can be found on our website www.rightsofwomen.org.uk/policy.html

- Making Legal Rights a Reality
- Consultation on the Second London Domestic Violence Strategy
- Review of the Human Fertilisation and Embryology Act
- Forced Marriage – A Wrong Not a Right
- Consultation on the possession of extreme pornographic material

Your organisation can also get involved in the policy decision making process by either responding to the papers yourselves or by endorsing Rights of Women’s responses. This can be done by sending a brief letter or email supporting our submissions to the relevant consultation body. Please drop us a line letting us know you have done this. Our email address is info@row.org.uk.