

Ymchwiliad i hawliau dynol yng Nghymru

Inquiry into Human Rights in Wales

Ymateb gan: Yr Athro Robert Moore

Response from: Professor Robert Moore

The impact of the UK's withdrawal from European Union on human rights protection in Wales.

The answer to this question depends very largely on whether or not we withdraw from the Council of Europe. In a sense this is not an EU issue, but see below.

The impact of the UK Government's proposal to repeal the Human Rights Act 1998 and replace it with a UK Bill of Rights: The Committee Chair notes that this 'could be delayed while the UK Government deals with other matters'. This may provide a breathing space for continuing the consultations mentioned in the Chair's statement. In addition, the Welsh Government should consult more widely and strengthen its links with the Council of Europe, the ILO and agencies of the United Nations. Human rights are protected by treaties and international conventions as well as by domestic legislation. Wales is represented on international bodies through the UK.¹ Steps should be taken to ensure more independent (if informal) representation of the UK devolved administrations through a coalition lobbying with international agencies to minimise the extent to which a Westminster administration might retreat from existing treaty and convention obligations.

HMG's position is not obvious; when they propose to reduce the powers of European courts they seem to be referring to the European Court of Justice. But the European Court of Human Rights is the final arbiter on human rights cases. Presumably a 'British' Bill of Rights will break the link with the ECHR and thus require our exit from the Council of Europe? Whatever the provisions of a UK Bill of Rights they will clearly entail a diminution of current rights, at least by removing external scrutiny of UK government decisions. Diminishing the UK government's international accountability is plainly part of the plan and no UK government is going to limit its own powers through domestic legislation. The Welsh government should consider ways of reinforcing its accountability to people living in Wales – again a matter that might be explored with Scotland and Northern Ireland in the breathing space we may now have.

There would be a very damaging impact on the Welsh population if a *British* Bill of Rights was based on UK citizenship – the rights would no longer be universal and Welsh populations would be divided into those who do and do not have full rights. This would undermine any hope of an inclusive Wales. Every human being, whatever their status, should have equal rights on this side of Offa's Dyke.

Public perceptions about human rights in Wales, in particular how understandable and relevant they are to Welsh people.

There is no one 'public' perception of human rights in Wales. Furthermore, equality and human rights provisions are seamless in practice. In my work with police forces and a health board it is very

¹ Wales already has a direct link with the UN Committee on the Elimination of Racial Discrimination through Race Equality First's role as an adviser to the committee.

clear that there is widespread recognition that embedding human rights considerations and the provisions of the Equality Act 2010 into everyday practice ensures the more effective delivery of services. Considerable progress has been made in Welsh public bodies both as employers and service providers through implementing equality legislation in a human rights context. There is still a very long way to go; occupational cultures change very slowly. It may seldom be necessary, but when challenged on equality and human rights one can finally assert, 'It's the law'. Repeal of the Human Rights Act would, potentially, remove this legal backing for best practices or, equally importantly it might reinforce public perceptions that human rights are a problem. In this respect we may note the extent to which the EU referendum promoted a wave of prejudice and xenophobia across England and Wales, debates around the repeal of the HRA may incite further hostilities in Wales and elsewhere.

Working in North Wales localities I have encountered widespread ignorance of and hostility towards human rights. 'The Hated Human Rights Act' is an often quoted newspaper headline. People seem to be largely unaware of the importance of human rights and equality legislation in their daily lives and the lives of their neighbours and families. The view that human rights are for foreigners and criminals – and especially for foreign criminals – seems common. Furthermore, human rights are associated with 'Europe' so that it is the EU that requires us to favour foreign criminals. The distinction between the EU and the Council of Europe is lost in hostility to 'Europe' – if it was ever recognised.

My fifty-plus years in research and writing on 'race relations' has been a depressing experience of a 'race to the bottom' in which reasoned and informed debate is almost impossible. Given the strong xenophobic element in hostility to the HRA, even debating repeal will have a damaging effect on community relations in Wales. Popular newspapers are hostile on human rights issues and television indifferent to them. The Welsh Government should therefore make every effort to promote the importance to the Welsh public of human rights in their ordinary, everyday, lives. Moliere's Monsieur Jourdain did not realise he had been speaking prose all his life; many Welsh people do not realise that they have been protected by the European Convention on Human Rights all their lives or at least since 1950 and by the Human Rights Act since 1998.

Finally, in work with the voluntary sector I detect a widespread view that the Welsh Government has 'lost the plot' on equalities as other priorities emerge, and has completely lost it on race issues. Whatever the fate of the HRA, or the form of a UK Bill of Rights, many of the most important everyday rights that people should enjoy may be enhanced or defended through the equalities legislation. A more vigorous and thoughtful approach to equalities on the part of the Welsh Government would serve to indicate a serious commitment to human rights in Wales. This might change public perceptions.