

# **RIGHTS OF WOMEN RESPONSE TO THE JOINT COMMITTEE ON HUMAN RIGHTS' CONSULTATION ON *A HUMAN RIGHTS COMMISSION: STRUCTURE, FUNCTION AND POWERS***

## **Introduction**

1. Rights of Women welcomes the publication of the Joint Committee on Human Rights report on *The Case for a Human Rights Commission* (HL paper 67-1) and is pleased to participate in this further consultation exercise.
2. Rights of Women is an industrial and provident society, which was founded in 1975 to promote the interests of women in relation to the law. We run a free, national confidential telephone legal advice help line for women. We specialise in advising in family law, especially domestic violence and Children Act matters. Rights of Women works to attain justice and equality by informing, educating and empowering women on their legal rights. We are a membership organisation and our activities include producing publications, organising conferences and training courses, and doing policy and research work.

## **Question One**

3. Rights of Women welcomes the Committee's endorsement of the need for a Human Rights Commission, as advocated in our previous submission<sup>1</sup>.
4. We would prefer that a Human Rights Commission be constituted separately from any Single Equality Body, as we believe that this would offer the best comprehensive protection for women's human rights in both the employment and other spheres. We are concerned that a Single Equality Body may effectively decrease the amount of funding and attention given to sex equality issues in comparison with other equality strands, reflecting the current situation in which the Equal Opportunities Commission receives less funding than the Commission for Racial Equality or the Disability Rights Commission. With the addition of a human rights component, we are concerned that this will make funding for all strands even tighter. We believe that separate Human Rights and Equalities Commissions would be in less danger of being overwhelmed by their workloads.

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<sup>1</sup> Joint Committee on Human Rights, *The case for a Human Rights Commission Interim Report*, Appendices to the Minutes of Evidence No. 46 at Ev 219, HL paper 160, HC 1142 2002

5. However, as we strongly favour the existence of a Human Rights Commission, if the choice is to have a joint Equality and Human Rights Body or to have no Human Rights Commission, we would support the creation of a joint body. In this event, we would prefer that the body be an overarching commission, as this would allow joint working between different equality strands and would facilitate the addressing of issues concerning multiple discrimination.
6. However such a body or bodies are constituted, we believe that in line with the Paris Principles<sup>2</sup> there are elements of a commission which must be in place, including:
  - independence of the Commission from Government, to ensure credibility with the public;
  - adequate funding to ensure that the Commission's work may be done to the standard needed;
  - diverse and independent Commissioners appointed through a transparent recruitment process.

## Question Two

7. A separate equality body should have a substantial amount of overlap in its work with that of a Human Rights Commission, sharing knowledge, cases and best practice to ensure that a human rights culture and caselaw develops in the employment sphere. Both bodies should work effectively with the Women and Equality Unit.
8. The Single Equality Body must have a human rights mandate, to empower it both to address this aspect of individual cases, and to investigate and act upon discrimination in institutions<sup>3</sup>. A strong relationship with a separate Human Rights Commission would allow other human rights issues related to women – for example domestic violence – to be addressed by such a Commission. This is particularly important given such areas of women's human rights are currently not addressed by the Equal Opportunities Commission.
9. We also believe that a Single Equality Body should incorporate use of the Convention on the Elimination of all forms of Discrimination Against Women into all aspects of its work, including its remit regarding education and cultural change. Rights of Women strongly believe that the Government should sign up to the Optional

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<sup>2</sup> Principles relating to the status and functioning of national institutions for protection and promotion of human rights, endorsed by the Commission on Human Rights at resolution 1992/54 and by the General Assembly in resolution A/RES/48/134 of 20 December 1993.

<sup>3</sup> Rights of Women support Sarah Spencer's argument on this point given in the Institute for Public Policy Research paper *Should the Single Equality Commission be able to protect human rights?* Published December 2002, see section 3.

Protocol to the Convention<sup>4</sup>. Should this happen, the Body should promote and explain this development to the public and should adapt its work to make maximum use the Protocol.

### Question Three

10. Rights of Women agree with the Committee's conclusion that the Human Rights Commission should be principally concerned with protecting and promoting human rights in England and Wales, and that it will be necessary to have a body co-ordinating such work at a UK-wide level. This body should help to meet the UK Government's obligation under international law to ensure compliance with international human rights standards throughout the UK.
11. Such a body should be composed of representatives from each of the human rights commissions, plus diverse community and non-governmental organisation representatives. This would help ensure meaningful connections between the public and those working to protect their rights, and would ensure emergent or key issues on the ground were raised at the highest level.
12. This body should not attempt to standardise practice between the commissions, but should rather provide a space for representatives to share best practice and connect with diverse community perspectives. It should also network with similar groups both nationally and internationally to inform this work. We agree with the Committee's finding in para 219 of the report that such a body should be small, independent and have the 'power and funds to commission independent advice and assistance'.
13. The body should be held to account in the same way as the Human Rights Commission. Our preferred option for this is outlined at paragraph 22.

### Question Four

14. Rights of Women agree that the powers and functions listed and circulated by the Committee would be essential for a Commission to have.
15. We are concerned that the Commission would have to secure substantial funding to be able to offer advice to individuals. It may be appropriate for funding to be made available to non-governmental organisations to provide some such advice in addition to the Commission's in-house service. We support the Committee's

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<sup>4</sup> Harriet Samuel, *The Optional Protocol should not be Optional*, Rights of Women Bulletin Summer 2001

recommendation that the Commission should not be an overly litigious body.

16. As prescribed by the Paris Principles, we believe that for the Commission's powers to undertake public inquiries to be effective, the Commission must be able to 'hear any person and obtain any information and any documents necessary for assessing situations falling within its competence'<sup>5</sup>. A power to order disclosure of relevant information should be a part of the Commission's mandate in this area.
17. We agree with Liberty that the Commission's work should further include tackling the underlying causes of discrimination where this is linked to the protected grounds<sup>6</sup>. This would allow the Commission to engage with factors contributing to disadvantage, including domestic violence and immigration and asylum issues. Overall we believe that a Single Equality Body, whether inclusive of a Human Rights Commission or not, must be supported by a strong Single Equality Act.

#### **Question Five**

18. Rights of Women believes that all three suggested powers should be given to the Commission. We would however want to be assured that adequate funding would be available to enable the Commission to discharge these functions effectively.
19. We believe that the Commission should provide assistance (including financial assistance) to individuals to take test cases relating to Convention rights questions, where appropriate. Well established connections with grassroots organisations would facilitate such cases coming forward.
20. The Commission should be able to take cases in its own name where a victim of a breach of Convention rights cannot be identified.
21. The Commission should be able to apply for judicial review in its own name in relation to questions connected with human rights. We believe that this will be an essential tool in allowing the Commission to fulfil its mandate. We are very concerned that the UK Commission does not face the limitation suffered by the Northern Ireland Commission, where the Commission cannot rely on the Convention rights when bringing proceedings in its own name.

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<sup>5</sup> see note 2, Section C, paragraph 2

<sup>6</sup> See Liberty, *Briefing on the multi-departmental consultation Equality and Diversity Making it Happen*, para. 5, February 2003

## Question Six

22. We agree with the Committee that the Commission should be held accountable to Parliament. A key issue here is independence from Government in terms of both funding and appointments, in line with the Paris Principles. We agree that the current arrangements for ensuring accountability of the equality bodies could be improved, and would therefore prefer a model such as that suggested in paragraph 228 of the report, utilising the relative independence of the National Audit Office and the Public Accounts Committee.
23. Parliament should be involved on a statutory basis in setting the budget for the Commission to ensure a measure of democratic control.
24. In line with the requirements and spirit of the Freedom of Information Act 2000 we would wish the Commission to operate a policy of a presumption of disclosure with regard to official information, and to make as much information as possible easily available to the public in accessible form. This would increase transparency, and boost public confidence in the Commission.

## Question Seven

25. Rights of Women endorse the Committee's recommendation that there should be a statutory requirement to consult Parliament on the appointment of commissioners to the new body. We believe that Commissioners should be appointed through the current system used to appoint civil servants.
26. We would wish the Commissioners to be appointed in line with the diversity requirement set out in the Paris Principles, namely 'to ensure the pluralist representation of the social forces of civilian society involved in the protection and promotion of human rights'<sup>7</sup>. Involvement of local communities and minority groups is essential. As set out in the Paris Principles, we believe such a Commission should set up regional or local groups as needed to ensure the effective discharging of its functions<sup>8</sup>. Transparency in the process will also be vital.
27. We would suggest that at least 50% of Commissioners should be female, reflecting the gender balance in the population as a whole.
28. We do not believe that these requirements are affected by whether or not the body is an integrated human rights and equality commission.

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<sup>7</sup> Section B, Paragraph 1

<sup>8</sup> *ibid.*, Section C, Paragraph 5

## **Question Eight**

29. In the event of a fully integrated Commission being established, we believe that the Commissioners could have multiple areas of expertise, allowing them to offer a mixture of perspectives and skills to the Commission. As long as all the areas of expertise and work were covered, it might not be necessary to choose between a skills based or experience based structure.
30. There should be the option of part-time or flexible working for Commissioners, to allow women with children or other care responsibilities to take on such roles.

### ***Rights of Women, April 2003***

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