

Senedd Cymru | Welsh Parliament

Y Pwyllgor Biliau Diwygio | Reform Bill Committee

Bil Senedd Cymru (Rhestrau Ymgeiswyr Etholiadol) | Senedd Cymru (Electoral Candidate Lists) Bill

Ymateb gan Sarah Wilkinson | Evidence from Sarah Wilkinson

What are your views on the general principles of the Bill and the need for legislation to deliver the Welsh Government's stated policy objective (to make the Senedd a more effective legislature by ensuring it is broadly representative of the gender make-up of the population)?

I disagree with the Welsh Government's basic premise.

- 1) It is the sex category of 'women' that needs more representation - the word gender is ambiguous in the current climate.
- 2) The proposal does nothing to guarantee more women have the opportunity to participate in political representation, it only favours those who already have that opportunity. The focus of this action is in the wrong place.
- 3) Quota systems are not popular and breed resentment. I do not vote for a representative based on their sex but on whether I feel they are the best person for the job.

What are your views on the system of enforcement and potential sanctions for non-compliance proposed in the Bill?

Self id is not law in any part of the UK.

Women have historically faced discrimination, including being limited to socially constructed gender roles, based on the reality of their sexed bodies, including disadvantage due to menstruation, fertility, child bearing/rearing, menopause and lesser physical stature/strength etc.

This proposed system breaks international laws regarding discrimination against women. Last week the United Nations Special Rapporteur on violence against women and girls issued a statement that the definition of "woman" in international human rights treaties, in

particular the Convention on the Elimination of All Forms of Discrimination Against

Women (CEDAW), is "biological".

She notes 'As CEDAW's reference to the prohibition of discrimination based on sex mirrors that of the UN Charter, the Universal Declaration on Human Rights, the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on

Economic, Social and Cultural Rights (ICESCR), "sex and sex-based discrimination is

understood as a biological category".'

Whilst CEDAW has not currently been signed into law in any part of the UK this is solely because it is considered that the provisions of its Articles were embodied in UK laws, eg the Equality Act. I note that the Senedd has previously committed to CEDAW.

Under the current proposal it would be possible to have a 100% male Senedd provided that at least half of them "stated" they were "women". This is clearly not in any way addressing the balance of the sexes in the Senedd.

Are there any potential barriers to the implementation of the Bill's provisions? If so, what are they, and are they adequately taken into account in the Bill and the accompanying Explanatory Memorandum and Regulatory Impact Assessment?

These provisions do not fall within the competence of the Welsh government as they directly impact on the Equality Act which is not a devolved matter.

These provisions break international law with regard to discrimination against women.

The financial implications of these two points mean the impact assessments require adjustment.

Are any unintended consequences likely to arise from the Bill?

Should the Senedd pass the Bill there will rightfully be legal challenge from the UK government and from parties representing women's rights. This will be a costly and lengthy exercise for all concerned. The Senedd should look to the progress of the Gender Representation on Public Boards Bill in Scotland for an example of this. Currently the definition of "woman" in this matter is awaiting a Supreme Court appeal.

The Bill could result in a Senedd with reduced representation of biological women.

Self id would be created as a category in law by the back door. This is too important a principle to be buried as a side note in legislation. (I note that this may indeed be

an 'intended' consequence of the Senedd's provisions but if so I find this obscuring of intent to be an affront to the notion of democracy.)

What are your views on the Welsh Government's assessment of the financial and other impacts of the Bill?

The fundamental flaw in failing to adhere to the definition of "woman" embodied in international (and therefore domestic) law regarding human rights, discrimination and equality renders the WG's assessments meaningless.

The incorporation of this first principle flaw exposes the government to substantial risk.

What are your views on the balance between the information contained on the face of the Bill and what is left to subordinate legislation? Are the powers for Welsh Ministers to make subordinate legislation appropriate?

No comments

Do you have any views on matters relating to the legislative competence of the Senedd including compatibility with the European Convention on Human Rights?

Please see my previous responses.

In summary:

- this bill is outside the legislative competence of the Senedd
- this bill is not compatible with international human rights, discrimination and equality legislation

Do you have any views on matters related to the quality of the legislation, or to the constitutional or other implications of the Bill?

This is a poorly conceived response to the desire to increase women's representation in the Senedd.

Opportunity needs to be created not at the party list level where women are already involved in politics but at grassroots level where women need to believe they can have a voice and that it will be heard and valued. This should be a cross party initiative and it should be led by the Senedd.

The government should not allow a contested ideology (the primacy of 'gender identity' over sex) to override its obligations to international law and convention. Even

more importantly it should not allow it to override its responsibilities to women - by which I mean the biological category.

Are there any other issues that you would like to raise about the Bill and the accompanying Explanatory Memorandum or any related matters?

Anything else?