



Good Food Nation Proposals for Legislation: Consultation response from Human Rights Consortium Scotland

The Human Rights Consortium Scotland is Scotland's civil society network to promote and protect human rights. Our membership includes charities, voluntary organisations, faith groups, academic networks and professional associations. HRCS Individual Supporters come from all walks of life.

Question 1: To what extent do you agree with the framework proposals for Ministers and public authorities to prepare statements of policy, have regard to them in the exercise of relevant functions, and report on implementation, with regard to international obligations and guidance?

Agree.

We strongly welcome the Scottish Government's commitment to progressing human rights and the progressive direction of travel around human rights in Scotland. For example, we strongly welcome the inclusion of a human rights outcome in the National Performance Framework and the commitment to incorporate the principles of the UNCRC into Scots law.

The UK ratified the International Covenant on Economic, Social and Cultural Rights (ICESCR) in 1976. Under the Scotland Act 1998, both the Scottish Government and Parliament must observe and implement all of the UK's international human rights obligations¹ including ICESCR. The right to adequate food is one key element of ICESCR. The Committee on Economic and Social Rights which oversees implementation of ICESCR said:

The right to adequate food is realized when every man, woman and child, alone or in community with others, has physical and economic access at all times to adequate food or means for its procurement.

The Committee outlines that this right to adequate food means ensuring:

- Availability- from natural resources and shops etc
- Accessibility - Economic and physical access
- Adequacy
- Sustainability

In light of these international standards around the right to adequate food, we highlight the following:

- **Incorporating right to food is an important part of progressing human rights in Scotland**

The Scotland Declaration on Human Rights¹ is supported by over 170 civil society organisations and states that they want to see human rights progressed and not regressed, particularly in the context of Brexit. Signatories call for ‘law and policy makers to take all possible steps to protect our rights and to make Scotland a world leader in both rights protection and implementation’. Embedding the right to food in our law is exactly the sort of ambitious and meaningful step that the Scottish Government should take with confidence and be proud of, as a way to make Scotland a human rights-based country.

- **Incorporating right to food in domestic law is in line with international standards**

Embedding the right to adequate food within Scots law so that it is enforceable in court is very much in line with the direction of travel internationally. The Committee on Economic, Social and Cultural Rights has called for justiciable remedies for violations of ESC rights to be made available. The Committee also suggests that ideally, economic and social rights should be protected in the same way as civil and political rights within the domestic legal order.

The Committee on Economic, Social and Cultural Rights also stated clearly in General Comment No. 12 that countries should ‘*consider the adoption of a framework law as a major instrument in the implementation of the national strategy concerning the right to food. The framework law should include provisions on its purpose; the targets or goals to be achieved and the time-frame to be set for the achievement of those targets; the means by which the purpose could be achieved described in broad terms, in particular the intended collaboration with civil society and the private sector and with international organizations; institutional responsibility for the process; and the national mechanisms for its monitoring, as well as possible recourse procedures.*’²

The rationale for incorporating economic and social rights and the positive benefits that this could bring for Scottish society are well-rehearsed and understood in

¹ See details at www.humanrightsdeclaration.scot

² General Comment No. 12:

https://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=E%2fC.12%2f1999%2f5&Lang=en

Scotland³. The discussion is no longer about *whether* economic and social rights, including the right to food, should be incorporated into Scots law but about *how* we incorporate these in a way that ensures full implementation and progressive realisation for individuals and communities.

- **Incorporation of the right to food should sit within food framework legislation, and not be delayed**

The Human Rights Consortium Scotland was a core member of the civil society reference group to the First Minister's Advisory group on Human Right Leadership. We greatly welcomed the Advisory Group's recommendations and very much hope that the Scottish Government's response is positive.

We note that the Good Food Nation Bill consultation document states:

'The option of exploring a right to food which is directly enforceable as a matter of Scots law has not been ruled out. It is best considered, however, as part of the wider work on incorporation currently being done by the First Minister's Advisory Group on Human Rights Leadership. The Group reported in December 2018 and full account will be taken of its recommendations, including in relation to incorporation of the right to food.'

We welcome that the incorporation of the right to food so that it is justiciable is still on the table but we also highlight that there is no need – and indeed it would be unfortunate – to delay embedding the right to food in this framework legislation around food. Just as there is no need to delay full incorporation of the UNCRC⁴, there is also no need to delay incorporation of the right to food. Indeed, there may well be great benefit for the future of human rights legislation in examining the most effective way to incorporate and implement the specific human right of the right to food, in advance of legislation to incorporate the wider range of human rights.

There is also no detriment in having the right to food within this food framework legislation and then reinforced within upcoming human rights legislation. If the human rights legislation was already in place, it would still have been of benefit to embed it within this food framework legislation.

We also highlight that time is of the essence. Our EU legal framework is being stripped away through Brexit and many of the economic and social rights that were derived from Europe are now at risk. In addition, there is an ongoing threat of repeal

³ See for example: <http://www.scottishhumanrights.com/economic-social-cultural-rights/>; Lord Advocate James Wolffe QC lecture here: <http://www.scottishhumanrights.com/media/1469/wolffe2014lecture.pdf>; Models of Incorporation and Justiciability of Economic, Social and Cultural Rights, Dr Katie Boyle, Nov 2018: https://www.scottishlegal.com/uploads/Models_of_Incorporation_ESCR_vFinal_Nov18.pdf

⁴ Letter from Together and others: <https://www.togetherscotland.org.uk/news-and-events/news/2019/03/together-writes-to-minister-to-call-for-action-on-incorporation/>

to the Human Rights Act and a context of austerity, increasing poverty and food insecurity affecting many individuals and communities. In such a context as this, there has never been a better time for the Scottish Government to send a message that everyone in Scotland, no matter who they are, should have a real and enforceable right to adequate food.

March 2019

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ⁱ Scotland Act 1998, Schedule 6, para 7(2).