

Civil society using human rights as a tool for change

Human rights law, standards and approach can be a powerful tool for change because:

- **Human rights are in law** - Many of our human rights are part of law in the UK, found particularly in the Human Rights Act 1998 and the Scotland Act 1998, as well as elements scattered throughout other law. All public bodies in the UK have legal duties to act compatibly with the European Convention on Human Rights. Individual victims and the Equality and Human Rights Commission can take legal cases to secure human rights.
- **Human rights are international** - The UK has agreed to international human rights obligations, including civil and political rights such as freedom of expression and freedom from torture, as well as economic, cultural and social rights such as the right to an adequate standard of living. UK progress on human rights is monitored internationally.
- **Human rights are in national policy** - Human rights are an explicit part of many Scottish Government and public body policies and strategies, including the National Performance Framework. The Scottish Parliament Equalities and Human Rights Committee has plans to strengthen its role around human rights scrutiny.
- **There is growing support for human rights** - Strengthening human rights in Scotland is generally supported by the majority of politicians and political parties, and from across civil society, support that was particularly heightened in the midst of Brexit debate and COVID-19 impacts.

This paper does not claim to be comprehensive or be research-based! However, this paper seeks to summarise, from our experience of working with our members and others, some of the ways that organisations in Scotland regularly use human rights law, standards and approach as a tool for change.

We anticipate that, as human rights law in Scotland is strengthened through incorporation of the UNCRC and the new human rights statutory framework currently being developed by the National Taskforce on Human Rights, civil society's use of human rights to advocate for change will increase significantly. The potential for new and innovative community-based, grassroots use of human rights to shift the power balance, such as the new organisation Making Rights Real, is significant and growing.

Overall, organisations take a rights-based approach to their work for change because this goes beyond best practice, compassionate policy, best use of resources, or pragmatism – although it is also all of those things.

Instead, by asserting and championing a rights-based approach, organisations advocate for a sharing of power between the state that makes decisions, and the rights-holders that are impacted by those decisions.

Specifically, organisations in Scotland currently use human rights law, policy and standards:

To empower individuals to have a say in decision-making that affects their lives

For example:

- The Scottish Independent Advocacy Alliance works with their members to use human rights – see for example, their guide: [Advocating for Human Rights](#)
- Mental health organisations explicitly draw on rights such as to liberty, to freedom from inhumane and degrading treatment, to body autonomy, and to family life to advocate for individuals' to have a say in decision-making. Human rights principles such as proportionality and necessity are very relevant to decisions around mental health treatment.
- [C-Change Scotland](#) supports people that have learning disabilities, mental health issues and other additional support needs to have real positive change in their lives. Their work takes an explicit Human Rights Approach, ensuring the individual has full say over their own life and can be active citizens within their community.

To empower particular groups to campaign for change

For example:

- [Inclusion Scotland](#) is the national disabled people's organisation. Their work is underpinned by the UN Convention on the Rights of People with Disabilities (UNCRPD) - for example during COVID-19 they have highlighted Article 11 of the Convention which states that there must be particular protection for disabled people during national crises. They have measured COVID-19 impacts against disabled people's UNCRPD human rights.
- [Advocard](#)'s collective advocacy project for those with experience of the mental health system enables them to call for change based on their lived experiences of the system, drawing on human rights Articles to shape their calls.
- [People First Scotland's Law and Human Rights Group](#) issued a statement on COVID-9 measures, criticising Government guidance for its lack of importance given to securing the human rights of those with learning disabilities, particularly those measures which vastly reduced people's say in decisions about their own lives such as being moved accommodation without notice.

To empower organisations to campaign for change on particular issues

- [Nourish Scotland](#) and the [Scottish Food Coalition](#) campaign for the international right to food to be incorporated into Scots law, with the aim that this would be a step towards adequate, sustainable, healthy and affordable food for all.
- The [Scottish Refugee Council](#) base their advocacy on the Universal Declaration of Human Rights, the Refugee Convention and other international human rights treaties that give a foundation of right to sanctuary for refugees fleeing persecution.
- [Shelter Scotland have a campaign](#) to incorporate the right to housing into Scots law as a way to progressively shift budgets and priorities to improve and increase housing in Scotland. In particular, even those with insecure immigration status would then have a human right to safe, secure and adequate housing.

To advocate for an approach to policy and priority setting that is based on participation of those with lived experience

- [Glasgow Disability Alliance's](#) work is all based on the UN Convention on Rights of People with Disabilities, and 'Drivers for Change' is particularly built on Article 14 – the right to fully participate in all aspects of society. 'Drivers for Change' involves over 150 GDA members in learning facilitation and self-advocacy skills, listening and peer support skills, as well as taking part in briefings and discussions about a whole range of policy and human rights developments, in order to champion disabled people's rights and lived experiences.

To hold Government to account on progress to realise human rights for all

For example:

- [Together](#) (the Scottish Alliance for Children's Rights) annually produces The State of Children's Rights reports which assess progress in Scotland on implementing the UNCRC.
- [Howard League Scotland](#) campaigns for the human rights of prisoners and their families, for example raising the use of solitary confinement during COVID-19 as an infringement of the right to freedom from inhumane and degrading treatment.
- Amnesty International has been a member of [Police Scotland's special advisory group](#) around emergency COVID-19 extra powers, where they have been able to contribute to monitoring of the police actions at this time to ensure that individuals' rights are protected and that there is assurance that the police are going no further than intended.

As a basis for shared understanding and collaborative advocacy across organisations and issues

For example:

- [Human Rights Consortium Scotland](#) facilitates organisations working on different issues to collaborate on structural rights challenges. For example, leaving the EU has decreased rights protections for all. It has been difficult however for organisations to highlight Brexit impacts that may affect some of those they work with/for at some point in the future because of the level of uncertainty and complexity. By taking a pan-human rights approach, organisations have been able to work together to raise the [overarching concern at a policy direction of rights regression](#).

To highlight concerns and priorities for action through UN human rights monitoring and processes

For example:

- When the UN Special Rapporteur on Extreme Poverty and Human Rights, Philip Alston, visited the UK in 2018, many Scottish organisations contributed to [his final report](#) that demanded action to address poverty, stating 'poverty is a political choice'.

- [Article 12 in Scotland](#) undertook research into the views, opinions and recommendations of children and young people aged 11–25 who were looked after young people; young carers experiencing mental ill-health; young people with disabilities; young Gypsy/Travellers; and young offenders. This research was presented to the UN Committee on the Rights of the Child to inform their review of UK process to implement children’s rights.
- [Engender](#) consulted with women and organisations across Scotland around the extent to which the UN Convention to Eliminate Discrimination Against Women(CEDAW) is realised. They then collated findings into a shadow report, put together with reports from elsewhere in the UK, to inform the UN’s 2019 review of UK progress.

To challenge poor decision-making for individuals through the law and courts

- [JustRight Scotland](#) is Scotland’s legal centre for justice and human rights. They have three centres of excellence, all using human rights law in different ways: the [Scottish Anti-Trafficking & Exploitation Centre](#) provides legal advice and representation to child and adult survivors of trafficking and exploitation; the Scottish Women’s Rights Centre works with women who have been affected by Gender Based Violence; and the Scottish Refugee and Migrant Centre, which amongst other things, fights for the rights of unaccompanied child refugees.
- [Govan Law Centre](#) regularly uses human rights law to protect those in poverty and at risk of destitution. For example, they won a delay in the [eviction of a family of EU citizens](#), arguing in court that immediate eviction was a disproportionate interference with the right to respect for private and family life, as safeguarded by Article 8 of the European Convention on Human Rights.

To challenge systemic problems through the law and courts

The use of litigation to bring strategic change in Scotland is increasing, enabling increased clarity on human rights in practice or challenging where human rights have been ignored. For example:

- The [Stop Lock Change Evictions Coalition](#) was a collaboration that upheld the human rights of asylum seekers threatened with immediate eviction by SERCO, the Home Office-contracted asylum housing provider. Article 8 of the ECHR, the right to private and family life, was central to many of their court arguments and underpinned their approach.
- CLAN Childlaw is a unique legal and advocacy service for children and young people. Amongst other issues, [they have used the courts to clarify the rights of siblings](#) to have a say in Children’s Hearings, arguing that this affects their right to family life.

Human Rights Consortium Scotland

July 2020