

Scottish Human Rights Incorporation Bill

Incorporating our international human rights directly into Scots law is the best thing that we can do to make rights a reality in people's lives. It is the right time to take this next step on Scotland's human rights journey, and there is widespread support to see this Bill introduced from across Scottish civil society.

About the Bill

In the UK, **we currently have some of our international human rights directly in our law.** The European Convention on Human Rights was incorporated into our law in **the Human Rights Act 1998.** This mainly incorporated what is known as our civil and political rights - things like freedom from torture, the right to life, the right to a fair trial, freedom of the press. This means that public authorities need to not do anything that is incompatible with these rights. It also means that if necessary, individuals can take public authorities and government to court to protect these rights. Everyday, the Human Rights Act protects all of us, including some of the most vulnerable people in the UK.

However, the UK has signed up to other international human rights that are not currently directly in UK law.

In March 2021, the Scottish Parliament passed a Bill to incorporate the United Nations Convention on the Rights of the Child (UNCRC) into Scots law.

A Scottish Government-led National Taskforce on Human Rights Leadership then recommended that **four more international human rights treaties be incorporated into Scots law.** These are:

- The International Covenant for Economic, Social and Cultural Rights (**ICESCR**) – this includes things like the right to adequate housing, the right to food, the right to the highest attainable level of physical and mental health
- The Convention for the Elimination of all forms of Discrimination Against Women (**CEDAW**)
- The International Convention for the Elimination of all forms of Racial Discrimination (**CERD**)
- The UN Convention on the Rights of Persons with Disabilities (**CRPD**)

The Taskforce also recommended that a new right to a healthy environment, equality protections for LGBTi people, and older people's rights should be included. They set out detail about other parts of a Bill that are needed for implementation, such as new duties on government and public authorities.

The Scottish Government accepted these recommendations and has pledged to introduce the Bill in this parliamentary session (2021-2025).

The Scottish Human Rights Incorporation Bill is:

- **the next step in Scotland's human rights journey**

Passing the UNCRC Bill was 'historic', one of the biggest achievements of the Scottish Parliament, widely welcomed and applauded, not least of which by children and young people themselves.

Now it is time to take the next step in Scotland's human rights journey. **All of our international human rights work together** to provide the best protection for us all, especially those who are most marginalised. That is why we need to not stop here – we need to press on to put all of our international human rights into our law.

- **the best way to have more rights protections in law, not less**

We have already **lost some of our human rights law protections during Brexit**. Now the UK Government is introducing legislation and undertaking reviews that threaten to water down government accountability on rights. For example, the current **review of the Human Rights Act** does not ask questions about how to strengthen our human rights legal protections, but how to reduce them, and how they might increase the power of Government vs people. With the threat of regression on rights protections at a UK level, it is more important than ever that a Scottish Human Rights Bill says clearly that the only way is forward – more human rights in law, bringing more accountability, and more rights made real.

- **a direct response to COVID-19 disproportionate impacts on already-marginalised people**

Too many people in Scotland for too long have lived without fulfilment of their economic and social rights, for example with inadequate housing, food insecurity, gaps in their education, and lack of access to healthcare. **Austerity** measures over the last 10+ years have deepened poverty and disadvantage, particularly impacting women, children, Black and ethnic minority people, disabled people and older people. In addition, the economic and social **impacts of withdrawal from the EU** are beginning to bite with rising food prices, and shortages in health and social care staff and volunteers.

We know that the **impact of COVID-19 measures** only made things more difficult for those who already lived with significant disadvantage. People whose lives and livelihoods were precarious, tough and marked by injustice before COVID, are really struggling to keep going during it. The pandemic put the spotlight on how important it is that we urgently address those gaps in people's economic and social rights. Putting our international human rights into Scots law provides that essential baseline of human rights for all, not some, so that **no one is left behind**.

- **the best way to drive and embed rights-based public authority decision-making**

All too often, people's experience of respect for their human rights is patchy and uncertain, often dependant on a particular member of staff or whether a budget line properly reflects the level of need. This Bill will ensure that a human rights-based

approach is taken to determining priorities for budgets, for planning, for policy, for services. It requires a robust evidence base about who is left behind and the reasons for this. It gives fresh impetus and necessity to embed participative decision-making, particularly hearing from those whose rights are most often neglected. Building on UNCRC implementation, and the best practice that already exists, it will mean a rights-based approach to Scottish Government budgets, policy and law making, as well as a rights-based approach by local authorities, health boards and others.

- **the best way to empower individuals and communities for good**

Human rights go beyond best practice, compassionate policy, charitable purposes, or pragmatism (although they are also all of those things). Human rights are about a sharing of power between the state that makes decisions, and the rights-holders that are impacted by those decisions. Incorporation of international human rights into our law means that individuals and groups will be empowered to name and claim their rights, access justice and enforce their rights, even ultimately going to court where necessary. This empowering law will drive a culture of human rights where protection of a person's dignity is the litmus test of success, and where public authority decision-making is increasingly shaped by the voices of those affected.

There is huge support for the Scottish Human Rights Incorporation Bill

People have campaigned for this Bill for years, and the UN has recommended incorporation of UN rights treaties into domestic law multiple times. Public engagement about the Bill has demonstrated overwhelming support for the Bill - [All Our Rights In Law](#) saw community conversations with over 400 people who said that they wanted incorporation of human rights. Many spoke about wanting this Bill to 'have teeth', to 'not sit on a shelf', and to bring real change on systemic issues.

Over 60 civil society organisations were involved in informing the National Taskforce's Bill recommendations. From health to environment, from anti-poverty to anti-racism, from local community groups to national organisations – there is significant support from across civil society for this Human Rights Incorporation Bill.

What happens now?

The Scottish Government has committed to engaging rights holders and civil society in development of the Bill and its implementation. We expect a Bill consultation.

The Human Rights Consortium Scotland facilitates civil society to work together and have the information resources they need to influence the Bill's development.

Join the Consortium for free at: www.hrcscotland.org

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#AllOurRights