



Briefing for debate 8th December

International Human Rights Day

Our human rights are about the values we hold dear and the way we treat one another – they are about dignity, fairness, equality, tolerance, and respect. They are the foundations that help us live together freely and fairly - a safety net to protect us all. However, we know that human rights across the world are under threat, and human rights in Scotland are far from being protected or realised for too many people.

We welcome this parliamentary debate as a sign of the Parliament's commitment to human rights and to playing its role as human rights guarantor. This debate also comes at a crucial time for human rights protections in Scotland. **We urge you to give your vocal support and commitment to human rights law being strengthened, and human rights for all being further protected and realised in Scotland, and across the UK.**

This briefing focuses on two aspects of human rights law developments:

- UK Bill of Rights Bill
- Incorporation of more international human rights in Scotland

UK Bill of Rights Bill

This Bill, driven by the Justice Secretary Dominic Raab MP, was introduced to Westminster in June 2022 – was shelved in September 2022 – and now the UK Government has announced plans that it will once again continue to Second Reading.

This Bill will repeal and replace the Human Rights Act 1998 (HRA). It will jeopardise the foundational place of human rights in law, policy and practice in the UK, and reduce people's access to justice and accountability. This is an unnecessary, unevidenced, unworkable, and unwanted Bill that will disempower many.

We urge MSPs to call for this Bill to be scrapped for good.

There are many reasons for this Bill to be dropped:

1. There is overwhelming support to keep the Human Rights Act

The Human Rights Act is an essential protection for our human rights and it is working well. It has been vital to securing dignity, justice, and respect for individuals, families, and communities across Scotland and the UK over the past two decades. There is no need to repeal and replace it.

Furthermore, the UK Government's proposals are out of step with political and public opinion in Scotland. Over 130 organisations across Scotland [strongly support keeping the Human Rights Act](#) and have called on the UK Government to drop their plan to replace it with this regressive legislation.

2. The UK Government has ignored expert legal and policy analysis, and lived experience of people whose rights are at stake, in writing this Bill.

The [report of the Independent Human Rights Act Review](#) (IHRAR) was discarded by the UK Government when drawing up this Bill. The views of the over 12,800 respondents to the Government's own consultation, including from many community organisations have been dismissed, and the recommendations of the Joint Committee on Human Rights (JCHR) have been rejected. Some of the proposals in the Bill, such as those concerning interim measures, have never been consulted on at all by the Government.

3. The Rights Removal Bill will significantly reduce human rights protection.

We highlight just *some* of the impacts of this Bill - it will:

- **Reduce access to justice and accountability.** It proposes to have stricter criteria for taking human rights cases to court, putting justice even further out of reach for people when their rights are violated
- **Reduce the requirement on public bodies to respect people's human rights.** The Bill removes courts' ability to interpret legislation in a fully rights-compatible way. Public bodies will no longer be required, or be able to, apply other laws such as mental health laws, in a way that fully respects human rights.
- **Undermine the fundamental principle that we all have human rights by virtue of the fact that we are human.** It seeks to separate people based on whether they are deserving and undeserving of human rights. For example, the Bill seeks to limit the ability of people in prisons to bring human rights claims. It is in precisely such institutions that protections are most vital. Further, the Bill's attempt to tie an individual's past conduct to the damages to which they are entitled after a finding of a rights violation, contravenes the right to equality before the law and will stop people from obtaining a just remedy.
- **Set us on a collision course with the European Court of Human Rights (ECtHR).** The proposals throughout the Bill threaten to create divergence between the rights enjoyed domestically and those protected at the Strasbourg level. As a result, more and more people will be forced into taking long and

costly proceedings in Strasbourg when their rights have been abused by the State. It is only those who can afford to do so who will be able to do so.

- **Pave the way for parents and children, families, and wider communities to be ripped apart.** The existing deportation regime has already narrowed the scope of people who can challenge their deportation on Article 8 grounds and sets a very high threshold. This Rights Removal Bill sets to make this system even more brutal and unjust, by limiting challenges to those where a child or dependent would come to ‘overwhelming, unavoidable harm’.
- **Undermine the positive and preventative place of human rights in our public services and policy.** The Bill proposes to end courts’ ability to require positive obligations of public bodies. It was these positive obligations that enabled loved ones of people who have died in State custody and in state institutions, to seek truth, justice, and accountability. They enabled families to visit their loved ones in care homes during the Covid-19 pandemic.

4. The Rights Removal Bill ignores concerns about its impact on devolution.

The HRA, and ECHR that it incorporates into UK law, are [foundational to the devolved settlement](#). In proposing to scrap the HRA, the UK Government has given scant regard for the distinct operation and administration of law in Scotland, the foundational place of the HRA to devolution, nor of the increased legal uncertainty related to shifting, diverging and more restrictive interpretation of rights. All of this also places additional barriers to those who would seek justice and accountability on human rights in Scotland.

Incorporation of more international human rights in Scotland

We strongly support bringing more of our international human rights treaties into Scots law – this is the best way to ensure that people will be able to ‘name and claim’ these fundamental rights, and that human rights will shape Government and public authorities’ priorities, policies and practice. An enhanced human rights framework will underpin and strengthen the growth of a human rights culture and society in Scotland.

We urge MSPs to:

- **Reiterate their support for the UNCRC Incorporation (Scotland) Bill to be amended as a priority, and commenced as soon as possible.**

It will soon be two years since the UNCRC (Incorporation) (Scotland) Bill was unanimously passed by the Scottish Parliament. Delays to addressing the UK Supreme Court judgment means that children are still waiting for legal protections of their rights to become a reality. We urge MSPs to do all they can to ensure

amendments are brought before the Scottish Parliament so the Bill can be passed and commenced with no further delay.

- **Support further incorporation of international human rights treaties into Scots law.**

A new Human Rights Bill for Scotland was promised by the Scottish Government following the recommendations of a National Taskforce which set out a pathway for Scotland to demonstrate progressive, ambitious leadership on human rights. This Bill has the potential to bring all key United Nations human rights treaties into Scottish law, providing greater protection closer to home for people when their rights are violated.

The Cost of Living Crisis threatens the ability of many more people to have enough to live on. Too many do not have adequate housing, sufficient food, and equal access to education. Their right to cultural life, clean air and water, and to participate in decisions about their own life, are at risk. Women, disabled people (including people with learning disabilities), and people who are Black or from ethnic minorities, disproportionately face barriers to these rights.

There could not be a more important time for Scotland to incorporate our economic, social, cultural and environmental rights treaties directly into Scots law, and to embed focused protection for groups who face additional barriers to their rights. This would be a significant step towards making these rights real for more people.

The Scottish Government has committed to the new human rights bill by the end of this parliamentary session. They must now put all of the resource and priority needed into bringing this new human rights framework from a promise, to reality. The Bill must be written as strongly as possible. It must include measures to transform access to justice. It must include mechanisms for ongoing accountability. And they should be preparing for full implementation now, and not wait until the Bill has been passed. Lastly, at every step, the Bill must be informed by people's everyday experience of human rights.

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