



- There is a growing body of evidence that serious human rights breaches are likely to have taken place in Scotland during the pandemic.
- Now is the time for accountability and learning. The Scottish Government should commission a human-rights based public inquiry into its handling of the pandemic, which includes scrutiny of public bodies. Amnesty urges the Scottish Government to begin this process within the first 100 days of this administration.
- Scotland's Covid Recovery must be underpinned by strengthened legal protections for the rights of the most vulnerable in line with the recommendations of the National Taskforce on Human Rights Leadership.

Human Rights During Covid

Healthcare and key workers; those accessing social care, resident in care homes, and experiencing poverty have been particularly at risk of experiencing rights violations during the pandemic; including older people, disabled people, people of colour, children, people seeking asylum and women.

Research published this week by Amnesty and the Human Rights Consortium Scotland found that when asked what specific actions had been taken to comply with legal duties under the Human Rights Act, and rights considerations related to any change of practice or services provided due to the Covid-19 pandemic - most public bodies in Scotland could not provide evidence of taking human rights considerations into account as major service redesigns, including the withdrawal of social care and medical treatment, took place during the first wave of the pandemic.

Key Findings from the research included:

- There is a stark lack of evidence of a human rights-based approach to decision making throughout the period March – September 2020.
- There has been some limited progress in mainstreaming human rights across policy design pre-pandemic through the introduction of integrated impact assessments which evaluate equalities and human rights.
- Many examples of impact assessment provided in response to this research related to internal business such as human resource management, rather than service delivery.
- Understanding of the distinct nature of duties under human rights and equalities legal frameworks is still variable among public authorities.

- Human Rights are still assigned a subsidiary role in service and policy design when compared to duties under the Equality Act.

The report makes 14 recommendations including that

- The Scottish Government and public authorities should develop and publish action plans for a human rights-based approach to pandemic recovery and renewal, including participation of marginalised groups and those whose rights were particularly impacted by COVID-19.
- That the Scottish Government should commission a public inquiry into COVID-19 that includes consideration of whether human rights duties, standards and principles were met during the pandemic.
- That the Scottish Government as a priority implement their commitment to bring a Bill before Parliament to introduce a new human rights statutory framework which incorporates ICESCR, ICERD, CEDAW and UNCRPD, a right to a healthy environment and specific rights for LGBTI people and older people, into Scots law. This Bill must include duties to comply with these rights, as well as duties around monitoring, reporting, transparency and participative decision-making.

Learning Lessons

In March 2021 Amnesty coordinated an [open letter](#) from over 20 civil society organisations to the First Minister calling for a timeline to be set out for a Scotland specific, statutory public inquiry into the handling of Covid-19, taking an intersectional, equalities and human rights based approach. We were pleased to see a manifesto commitment from the SNP to commission a human rights-based inquiry as soon as possible after the election, but are concerned by [recent press reports](#) suggesting the Scottish Government may not take action until the TORs of a UK Inquiry are known.

The UK and Scottish Governments made decisions every day that dramatically affected everyone's lives and it is important that those decisions are examined. Not only do Ministers and other decision-makers need to be accountable for the unprecedented powers they exercised, but we also need to learn the lessons for the future.

Amnesty's position is that it is not necessary for the First Minister to wait for the Prime Minister to move on a UK inquiry before commissioning her own. There is no legal barrier to the Scottish Government running its own inquiry simultaneous to the UK Government. Running a Scottish Inquiry in interim phases would allow the Scottish inquiry to focus first on policy in devolved areas, as well as for the expedited publication of findings around specific areas of concern.

Building Forward

Strengthening legal protections for the human rights of the most vulnerable must underpin a human-rights based recovery for Scotland.

Amnesty welcomes the Scottish Government's commitment to introducing a new human rights bill to implement the recommendations from the National Taskforce on Human Rights Leadership, and urged it to prioritise this work. This will include the incorporation of the ICESCR, ICERD, CEDAW and UNCRC, a right to a healthy environment and specific rights for LGBTI people and older people.

Without fast and transformative action, the pre-existing disparities in the enjoyment of rights will become further entrenched for generations as a result of the pandemic. Across the world, States and private actors are using COVID-19 as an excuse to roll back economic, social and environmental safeguards and erode rights. Scotland has an opportunity to do better, but it must act decisively. This will require a strong set of entitlements enshrined in domestic legislation, defining individuals as rights-holders and public authorities as duty-bearers.

Scotland has already started the process of incorporation of international human rights into Scots law with the passing of the UNCRC Incorporation (Scotland) Bill. It is concerning however that the findings of our report referenced above suggest that compliance with the Human Rights Act is still so variable as the process of further incorporation begins. Building in duties around monitoring, reporting, transparency and participative decision-making, together with the increased capacity to fully implement these, is vital for securing compliance with human rights law, let alone for growing a human rights culture across public authorities. As we begin to rebuild from the COVID-19 pandemic and as we take these ambitious steps, it is a matter of urgency that government at all levels gives proper attention, resourcing and commitment to ensuring that public authorities fully comply with their current human rights duties. This will put them in good stead for implementing new human rights duties and culture as a result of incorporation, as well as preparing them well for whatever lies ahead in post-COVID Scotland.