



Briefing – 75th Anniversary of the Universal Declaration on Human Rights

Introduction

On December 10th 1948, the General Assembly of the United Nations announced the [Universal Declaration of Human Rights \(UDHR\)](#) - 30 rights and freedoms that belong to all of us. Seven decades on and the rights they included continue to form the basis for all [international human rights law](#). The 75th anniversary of the UDHR is an opportunity for the Scottish Parliament to reaffirm its commitment to furthering human rights protections for everyone in Scotland.

As organisations who share a concern and commitment to see human rights better protected and realised in Scotland, we strongly welcome the Scottish Government's ambitions to 'create a legal framework for us to embed international human rights within domestic law and drive transformative, positive change for people – empowering them to claim their rights.'

Any MSP who has advocated on behalf of a constituent to access basic rights - from social care support, to safe and secure housing or essential healthcare – knows that we need transformative change. Passing the Human Rights Bill due to be introduced by June 2024, will be a significant step towards achieving that and it has overwhelming support from across civil society organisations. **We therefore urge MSPs of all parties to support the aims of the Bill and work with civil society and the Scottish Government to ensure that the legislation is strengthened. It is time to put #AllOurRights into law for everyone.**

UDHR 75 and Generation 2048

2023 marks the 75th anniversary of the UDHR. Adopted in 1948 by the General Assembly of the United Nations following atrocities that represented the very worst of humanity, the UDHR held out the promise of a global framework for justice and the recognition of 'equal and inalienable rights' for all.

Its 75th anniversary is a chance to pay homage to those who used its extraordinary disruptive power during struggles for liberation and equality the world over; to those who made the UDHR real and authentic, in their struggle against colonialism; against bigotry and for equality; against patriarchy and for gender justice; for a world of greater dignity for 'all members of the human family'. That is what the UDHR offers to us: both

confidence and inspiration. It is living proof that a global vision for human rights is possible, is doable, can be realised.

On this 75th anniversary, while the world grapples with record levels of conflict, socio-political polarization, growing inequality, and the existential threat of the climate crisis, dare we re-imagine ourselves as delivering a 2048 UDHR – a UDHR for the next century of rights - a UDHR drafted by the many?

A Human Rights Bill for Scotland

'Where, after all, do universal human rights begin? In small places, close to home..' - Eleanor Roosevelt.

The UDHR legacy challenges us to resist attacks against rights wherever they happen and work together to build bold systems which will make real progress on protecting the most marginalised people and advancing rights protections for all.

Scotland has an opportunity to show leadership, and 2024 will be a year for politicians of all parties to take the next step in making human rights a reality in Scotland by supporting a new Human Rights Bill.

People in Scotland experience human rights violations every day, from disabled people blocked from accessing the social care they need to live independently, to people enduring inadequate housing.

Passing Scotland's Human Rights Bill is absolutely vital to ensure fundamental rights are better protected, but we, and many other organisations across civil society, also believe that the draft Bill - expected in 2024 - must go further than some of the proposals set out in this year's [consultation](#).

The Bill will incorporate four further UN rights Treaties into Scots law, within the limits of devolved competence:

- the International Covenant on Economic, Social and Cultural Rights (ICESCR);
- the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW);
- the Convention on the Rights of Persons with Disabilities (CRPD); and
- the International Convention on the Elimination of all Forms of Racial Discrimination (ICERD)

It will also include the right to a healthy environment, and an 'equality provision' that ensures the rights in the new legislation can be enjoyed by everyone within the limits of devolved competence.

The new legislation will build on the UNCRC Incorporation Act, to bring all of our rights – economic, social, cultural, environmental - into law alongside the rights that are already in law through the Human Rights Act 1998 and Scotland Act 1998. The legislation has

the potential to be transformative for people in Scotland by obligating public bodies to uphold a much wider range of rights.

Our over-arching priority is to ensure that incorporation is led by, and results in, tangible improvements for individuals and communities, especially those who face the greatest barriers to enjoyment of rights and those whose rights are most at risk. Proposals set out by the Scottish Government this summer are positive but need to go further in key areas:

1. **Duties contained in the Bill:** We are concerned by the proposal not to place an enforceable duty to comply on rights contained in CEDAW, CERD and CRPD. This will mean that people will not truly be able to name and claim all rights set out in the Bill. This is a particular concern in relation to CRPD, which contains many substantive rights for disabled people such as the right to accessibility, independent living and reasonable accommodations. This Bill will establish an overarching legal framework that will underpin the advancement of human rights for at least a generation - it is vital that it fully includes rights for disabled people. We fully acknowledge the complexity of decision-making around the limits of devolution and that this Bill must be careful to stay within those devolved limits. It is essential that the Scottish Government is open and transparent in their decision-making around constitutional limits to assure all that the Bill goes as far as possible in placing a stronger compliance duty on the group treaties, and that the UK and Scottish Governments work together towards this aim.
2. **Access to Justice:** Without ensuring effective access to justice the Bill will fail in its aims. People struggle to access justice for rights breaches every day in Scotland which means the status quo is not acceptable. We need an express right to an accessible, affordable, timely and effective remedy on the face of the Bill; more detail on how public interest litigation will be supported through the provisions of the Bill and how financial and practical barriers to access to justice under the Bill will be addressed through policy and fiscal measures. Wider access to justice reform is needed, including reform of our legal aid system, in order to make sure that everyone is able to access a remedy for a breach of their rights in practice.
3. **Implementation:** Implementation is not something to be left until after the Bill is passed. The Scottish Government needs to give proper planning, resourcing and attention to implementation now, so that this Bill does not just “sit on the shelf”. People are living with serious infringements of their human rights now, and it would not be acceptable for full implementation to be at an undefined future point - timescales for all the duties coming into force need to be stated in the Bill. The Bill must also contain sufficient detail about the participatory process that will be used to define the minimum levels of the incorporated rights, and the timing of that process.

Learning from the United Nations Convention on the Rights of the Child (Scotland) Bill

The Scottish Parliament has already passed the UNCRC (Incorporation) (Scotland) Act. This is a very significant step forwards for human rights in Scotland, and we look forward to the Bill's commencement. There is vital learning from incorporating the first UN treaty into Scots Law we believe must inform the legislative process of Scotland's new Human Rights Bill.

- 1. Set out a clear timetable for legislative review:** The Scottish Government should set out a timescale in which it will conduct a review of existing legislation to identify Acts of the UK Parliament (and amendments to Acts of the UK Parliament) that relate to devolved areas covered by this Bill – and commit to taking the necessary steps to bring such legislation within its scope.
- 2. Commit to using specific legislative opportunities to expand the scope of the Bill:** The Scottish Government should commit to use forthcoming legislative opportunities to bring provisions of priority UK Acts, identified in the legislative review, into Scots law.
- 3. Commit to minimising future Scottish Parliament amendments to UK Acts:** A key lesson from the UNCRC Act was that Acts of the Scottish Parliament that amend UK Acts fall outwith the scope of the amended UNCRC Act. The Scottish Government should therefore commit to minimising reliance on UK Acts. Instead, the focus should be on bringing forward 'standalone' Acts of the Scottish Parliament.
- 4. Commit to a Human Rights Bill Implementation Programme:** The Scottish Government should establish an Implementation Programme similar to that which has accompanied the passage of the UNCRC Act. The work undertaken through the UNCRC Implementation Programme – particularly that of the Improvement Service – has already proved to be essential in supporting the culture change that we're seeking. It is essential that this work is built on and developed to support and build the capacity of public bodies to deliver the policy intentions of the Bill.