



Amnesty International UK Submission to the Smith Commission

Amnesty International is a global movement of more than 7 million people who campaign for a world where human rights are enjoyed by all. We reach almost every country in the world and have:

- More than 2 million members and supporters who drive forward our fight for rights
- More than 5 million activists who strengthen our calls for justice

In Scotland, we have 20,000 members as well as 123 active local, student and youth groups.

We welcome this opportunity to respond to the Smith Commission within its stated remit of facilitating an inclusive engagement process across Scotland, in order to provide recommendations as to the further devolution of powers to the Scottish Parliament.

Introduction

During the Scottish referendum campaign, Amnesty International UK's 'Rights Referendum' campaign, sought to ensure that human rights were central to the debate and that any future government respected, protected and fulfilled human rights for all people of Scotland. Throughout, Amnesty International maintained a neutral stance, both in terms of the outcome of the referendum and subsequent constitutional settlement.

We maintain this neutral stance in relation to the question of what further powers should be devolved to the Scottish Parliament.

However, we believe that the promotion and protection of human rights, as well as access to redress in cases of human rights violations, should be central to the process being undertaken by the Smith Commission; that the people of Scotland must be meaningfully consulted by the Smith Commission; and that the commission must be part of a longer term process, reflecting the level of democratic engagement which took place during the referendum campaign as well as the expectations created by all political parties involved in the debate.

Commitment to Human Rights Protections

In our 'Rights Referendum' report, Amnesty International set out how we envisaged any future Scottish government evidencing its commitment to respecting, protecting and upholding human rights.

This included a willingness to be bound by an international and regional framework of human rights.

This willingness would be evidenced by a government's adoption of a human rights-based approach at all levels of policy development and implementation; ensuring Scotland's human rights obligations were enacted through legislative and policy functions; as well as ensuring a full range of mechanisms for redress when human rights violations had occurred.

It is essential that whatever the final, agreed devolution settlement, a human rights framework with transparent accountability structures be adopted to ensure that there is no regression of human rights protections; and that these protections are strengthened for all people in Scotland.

Additionally, there must be clear, accessible mechanisms to receive, consider and resolve complaints alleging human rights violations.

Public Engagement

In the two years leading to the Scottish independence referendum, we witnessed political and democratic engagement by the Scottish people on a scale which has not been seen in recent memory.

The democratic outcome of the referendum vote was to remain within the United Kingdom: 2m Scots voted to remain within the United Kingdom; 1.6m Scots voted for Scotland to become an independent nation.

In the course of the campaign, pledges were made by Labour, Conservative and Liberal Democrat parties for 'extensive new powers' to the Scottish Parliament in the event of a 'no' vote. The Scottish public should be able to participate meaningfully in the process of deciding what 'extensive new powers' should now be devolved to the Scottish Parliament.

The fundamental nature of the debate, the level of engagement and the fact that the country was split so significantly on the outcome, make this a process of vital importance in terms of ensuring that Scotland moves forward, is strengthened through the process, and that political processes respect the will of the Scottish people

Whilst we understand that the Smith Commission is the agreed vehicle to take forward the process of defining what these powers might be, within timescales as set out prior to the referendum vote and agreed to by the three main parties at Westminster, we are concerned that the timescales prohibit full and effective engagement with the Scottish people. We are also concerned that the constrictive timescale is compounded by lack of access and public scrutiny. Whilst we welcome recent efforts by the commission to hold public engagement events, with the aid of civil society, we believe that this is not sufficient to enable a truly democratic and inclusive process for engagement.

The referendum debate was energised because of people coming together to discuss and listen to others talk about what they wanted for their future.

With this in mind, we would urge the commission to set out arrangements for real and effective participation by the Scottish public in the time which follows the completion of the commission's report and the legislation being passed. These arrangements should include a range of forums – both online and physical – and could include models such as the constitutional convention model used in the Republic of Ireland; public meetings and the use of community hubs to ensure that access to participation is achievable for all those in Scotland who wish to participate.

Recommendations

- 1. The final constitutional settlement must ensure that there is no regression of human rights protections; and that the human rights of all the people of Scotland are respected, protected and fulfilled. This includes clear accountability structures and mechanisms to provide redress when human rights violations are alleged to have occurred.**
- 2. The commission must ensure that the process of constitutional reform enables the meaningful and effective participation of the Scottish public.**

Amnesty International would welcome the opportunity to discuss any of our recommendations in more detail and looks forward to the outcome of the Smith Commission's work.

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