**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.** People have campaigned for this Bill for years, the UN has recommended incorporation of UN rights treaties into UK law multiple times, and there is widespread support to see this Bill introduced from across Scottish civil society. It is the right time to take this next step on Scotland’s human rights journey.

**About the Bill**

* **The story so far….**

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 religion and belief. This means that public authorities need to not do anything that is incompatible with these rights and take steps to protect our human rights. It means that all law needs to comply with it. It also means that if necessary, individuals can take public authorities, some private bodies, and government to court to protect these rights.

Every day, the Human Rights Act protects all of us, including some of the most vulnerable people in the UK. The Human Rights Act is also embedded into how the Scottish Parliament was set up which means that our laws have to comply with it.

However, **the UK has signed up to other international human rights dating back to 1976 that are still not directly embedded in UK law.**

* **Then in March 2021….**

The Scottish Parliament unanimously passed a Bill to incorporate the **United Nations Convention on the Rights of the Child (UNCRC)** into Scots law. The Parliament now needs to amend some parts of this Bill (and we, together with many others are calling on them to do so urgently!) so that the UNCRC becomes binding on all decisions affecting children and young people in Scotland.

And, a National Taskforce on Human Rights Leadership 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** be put into Scots law. This includes things like the right to clean air, safe water, and non-toxic places to work, live, study and play. The Taskforce says the Bill should include an equality clause, and specifically that the Bill should ensure that older people and LGBTI people should have equal access to these rights.

They set out detail about other parts of a Bill that are needed to see rights made real, including new duties on the Scottish Government and Scottish public authorities, and ways to make it easier for people to enforce their rights.

**The Scottish Government then accepted all of the Taskforce recommendations and has committed to introduce the Bill in this parliamentary session i.e. by May 2026.** This Bill was also in the SNP Manifesto, in Programmes for Government, and in letters and assurances from Scottish Ministers.

**Why is this Bill important?**

**The Scottish Human Rights Incorporation Bill is**:

* **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 watering down government accountability on rights. For example, the UK Bill of Rights threatens to repeal the Human Rights Act and sideline the importance of human rights protections for all. Now, for the first time in a piece of legislation, the UK Government is attempting to exempt the current immigration bill from having to comply with human rights. Planning to change UK law so that human rights apply only to some, and not to others, is extremely concerning.

With this threat of regression at a UK level, it is more important than ever that a Scottish Human Rights Incorporation Bill says clearly that the only way is forward – more human rights in law, bringing more accountability, and more rights made real.

* **the best way to ensure that no one is left behind or ignored**

For too long, too many people in Scotland 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 minority ethnic people, disabled people and older people. The **cost of living crisis** is bringing more people into poverty.

We know too that the **impact of COVID-19 measures** only made things more difficult for those who already lived with significant disadvantage. 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 and the right to a healthy environment into our law means that individuals and groups will be empowered to name and claim their rights, and access justice, even ultimately going to court where necessary. This empowering law will drive a culture of human rights which demands protection of a person’s dignity, andwhere public authority decision-making is increasingly shaped by the voices of those affected.

**What we want to see in the Human Rights Incorporation Bill**

We know that this Bill is complex - it incorporates multiple rights, and is being developed in the midst of devolution uncertainty and shift. We know too that it is ambitious, it is ground-breaking and it affects so much. We want, and all of us need, this Bill to be written well and implemented fully.

Specifically, the Bill must:

* Include all of our international human rights, and the right to a healthy environment, **without any watering down** or missing some out.
* Put **new duties** on public authorities to comply with these rights, to not go backwards but always take proactive positive steps to better realise rights.
* Establish how we will define **minimum core obligations** – the baseline that must be provided immediately for all - and make sure these are achievable. For example, a minimum obligation for your right to adequate housing means that you cannot just be evicted without good reason and due process.
* Make it much easier for people to ‘**name and claim’ their rights** and navigate **routes to remedy**. Justice must be made accessible, affordable, effective, timely and person-centred.
* People should be able to get the **information and advice** on rights, and the independent **advocacy** support that they need.
* Build in ways to ensure change on **systemic rights problems**, without relying on individuals to take a court case.
* Require government bodies to report on what they are doing to fulfil human rights. These **reports** should be based on lived experience of rights, should be accessible to all, and should mean that government bodies are held accountable and must improve what they are doing.
* Lead to our **National Human Rights Institution** (the SHRC) and the Children’s Commissioner having all of the accountability tools that they need to play their full role in advancing human rights.
* Make sure that all public bodies (including scrutiny bodies and some private sector organisations) take a **rights-based approach** to their work.

**Public authorities need to start planning for implementation now.** After all, we know what our international human rights are already, so there is no need to wait. The Scottish Government should **publish an implementation plan that begins in 2023**. This plan should include things like resources, staff training, identifying what data is needed, and how we will make sure that people have information about their human rights and about this Bill.

**What now?**

Over the last two years, the Scottish Government has had an Executive Board and Advisory Board advising them on the Bill. They also set up three ‘lived experience’ boards – you can read about [their advice here](https://hrcscotland.org/human-rights-bill-lived-experience-board-reports/). We need to make sure that the Government fully take on board their advice.

We have [called on the Government](https://hrcscotland.org/2022/12/13/civil-society-organisations-ask-minister-make-implementation-a-priority-for-human-rights-bill/) to properly resource the Bill team, to draw on external expertise, to start implementation planning, and to make sure there are no further delays to the development of this Bill.

The public consultation on the Bill has faced big delays, but it is now promised by the end of June 2023. The Scottish Government has committed to passing this Bill by May 2026, a commitment that [we have highlighted to the new First Minister Humza Yousaf.](https://hrcscotland.org/2023/03/13/consortium-asks-first-minister-candidates-to-honour-commitment-to-human-rights-incorporation/)

**Your voice**

You can get loads of information about [the Bill here](https://hrcscotland.org/human-rights-incorporation-in-scotland/).

The consultation: The Consortium will produce helpful resources and hold discussions during the consultation period. We will also coordinate a joint response for organisations who want to sign up to it.

Join the Consortium for free at [www.hrcscotland.org](http://www.hrcscotland.org)

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