

Equalities, Human Rights and Civil Justice Committee  
Tuesday 8 October 2024  
21st Meeting, 2024 (Session 6)

## Human Rights (Scotland) Bill

### Introduction

1. Following the Scottish Government's decision not to introduce a Scottish Human Rights Bill in the current parliamentary session, the Committee agreed to hold evidence sessions with stakeholders and academics and a session with the Scottish Government on the decision, what impact it may have and any suggested ways forward.

### Background

2. Proposals to incorporate economic social and cultural rights (ESC rights) into Scots law have been under consideration for at least ten years (for details see the SPICe briefing '[Economic, social and cultural rights – some frequently asked questions](#)').
3. The broad aim is to make ESC rights in UN treaties such as the right to an adequate standard of living, right to housing etc. enforceable in Scotland by individuals (including in the courts).
4. The method proposed broadly follows the approach in the Human Rights Act 1998 (Human Rights Act) which was introduced one year after the Labour party came into power in 1997 and which incorporated civil and political rights from the European Convention of Human Rights (ECHR) into UK law.
5. The approach proposed in the Human Rights Bill was also taken in [the United Nations Convention of the Rights of the Child Bill](#) (UNCRC Bill) which directly incorporated the United Nations Convention of the Rights of the Child into domestic law in Scotland. The Bill was successfully challenged in the Supreme Court by the UK Government on the grounds that the Scottish Parliament does not have the power to require UK Acts of Parliament to comply with international obligations (even when UK Acts of Parliament relate to devolved areas).

### The First Minister's Advisory Group on Human Rights Leadership

6. An advisory group, "[the First Minister's Advisory Group on Human Rights Leadership](#)" was set up by the then First Minister Nicola Sturgeon. It comprised human rights academics and lawyers and the then Chair of the Scottish Human Rights Commission (SHRC), Judith Robertson. The Chair of the group was Professor Alan Millar, a human rights lawyer and academic and previous Chair of the SHRC.
7. The group [reported in December 2018](#) and made a number of recommendations, the principal one being the introduction of an Act of the Scottish Parliament which, in addition to restating the existing rights in the Human Rights Act, would

incorporate ESC rights in UN human rights treaties as well as environmental rights and “specific rights for women, children, persons with disability, older persons, LGBTI and on race.”

## **The National Taskforce for Human Rights Leadership**

8. [The National Taskforce for Human Rights Leadership](#) was established in early 2019 to take forward the recommendations of the First Minister's Advisory Group on Human Rights Leadership.
9. It was co-chaired by Shirley-Anne Somerville MSP, the then Cabinet Secretary for Social Security and Older People, and Professor Alan Miller. It included members from the public sector and civil society, as well as an academic advisory panel.
10. After taking evidence from a range of stakeholders, the Taskforce published its [report](#) on 12 March 2021. The report followed the recommendations of the First Minister's Advisory Group. It proposed a Bill incorporating ESC rights into Scots law. For more details see the SPICe briefing “[Economic, social and cultural rights and the proposed Human Rights Bill](#)”.

## **2023-24 Programme for Government**

11. The Human Rights Bill was part of [the 2023-24 Programme for Government “Equality, Opportunity, Community”](#) presented by the then First Minister, Humza Yousaf. However, Humza Yousaf resigned in May 2024 and the Bill was not introduced ahead of summer recess 2024.

## **A Human Rights Bill for Scotland: Consultation**

12. The Scottish Government ran a [consultation](#) on proposals for a Human Rights Bill between 5 October and 15 June 2023. A total of 397 responses were received. Respondents included individuals, councils, civil society organisations, public bodies, academic institutions, legal professionals, private bodies and third sector.

## **2024-25 Programme for Government**

13. The Human Rights Bill was not included as one of the Bills which would be introduced in [the 2024-25 Programme for Government “Serving Scotland”](#). Instead, the programme for government states that, “work will also continue to develop proposals for Human Rights”.
14. [A letter from the Cabinet Secretary for Social Justice to the Convener of the Equalities, Human Rights and Civil Justice Committee](#) explains the Scottish Government's reasoning for the decision not to legislate.
15. In response to a question from the Convener during [the Conveners Group meeting on 18 September 2024](#) the First Minister, John Swinney, argued that there was a need to “tread with care” due to the impact of the Supreme Court UNCRC judgment. The Scottish Government's decision not to introduce the

Human Rights Bill led to widespread comment from stakeholders and academics.

## **Evidence sessions**

16. At its meeting on 1 October, the Committee heard evidence from.:

- Neil Cowan, Scotland Programme Director, Amnesty International UK;
- Emma Hutton, Chief Executive Officer, JustRight Scotland;
- Lucy Miller, Policy and Communications Lead, Human Rights Consortium Scotland;
- Professor Angela O'Hagan, Chair, Scottish Human Rights Commission;
- John Wilkes, Head of Scotland, Equality and Human Rights Commission Scotland

and then from—

- Professor Katie Boyle, Chair of Human Rights Law and Social Justice, University of Strathclyde;
- Nicole Busby, Professor of Human Rights, Equality and Justice, University of Glasgow;
- Professor Aileen McHarg, Professor of Public Law and Human Rights, Durham University;
- Alan Miller, Professor of Practice in Human Rights Law, University of Strathclyde;
- Dr Andrew Tickell, Senior Lecturer in Law, Glasgow Caledonian University.

17. At today's meeting the Committee will hear evidence from:

- Shirley-Anne Somerville, Cabinet Secretary for Social Justice and Scottish Government officials, Kavita Chetty, Deputy Director, Human Rights and Mainstreaming and Trevor Owen, Head of Human Rights Strategy and Legislation Unit, Scottish Government.

## **Format**

18. The evidence session will be held in person and broadcast on [SPTV](#).

## **Topics**

19. This session will provide an opportunity to explore topics such as:

- The impact of non-introduction of the Bill and how this has been communicated to stakeholders
- The Scottish Government's response to reactions from stakeholders about its decision
- Whether the decision to delay the Human Rights Bill could be viewed as inconsistent with priorities of the Scottish Government as set out in its Programme for Government
- Clarification on the timing of the decision

- Issues arising following the Supreme Court judgement on UNCRC and views on how these can be resolved
- The Scottish Government's response to views from stakeholders that the proposed incorporation of the equality treaties – CERD, CEDAW and CRPD does not go far enough.
- Clarification on what discussions are taking place between the Scottish and UK Governments on the constitutional issues relating to the Bill
- Whether incorporation of the treaties is a priority for the Scottish Government and what steps it plans to take.

## **Next steps**

20. The Committee will consider the evidence it has heard at today's session in private and agree on next steps.

**Clerks to the Committee**  
**October 2024**