

## Scottish Parliament Debate: Briefing for MSPs ahead of Debate to mark 75th Anniversary of the Universal Declaration of Human Rights

12 December 2023

### Kaukab Stewart S6M-10961: 75th Anniversary of the Universal Declaration of Human Rights

That the Parliament notes that 10 December 2023 is annual Human Rights Day, and marks the 75th anniversary of the Universal Declaration of Human Rights being proclaimed by the United Nations (UN) General Assembly in Paris on 10 December 1948; recognises what it sees as the vital role of human rights frameworks in expanding, promoting, and defending human rights across the globe; understands that the Declaration has been translated into over 500 different languages, and has paved the way for more than 70 human rights treaties to date; notes the belief that politicians of all parties must work together to ensure that human rights are championed and have a maximum effect in practice; recognises Amnesty International's campaign *Human Rights: Now Available in Human*, which, it understands, aims to engage as many people as possible in the legislative process for Scotland's proposed new Human Rights Bill; further recognises the work of civil society organisations, including the Human Rights Consortium Scotland, JustRight Scotland and Making Rights Real, in helping to protect and advance human rights in Scotland; notes that 2023 also marks 25 years since the UN General Assembly adopted the Declaration on Human Rights Defenders;

affirms its support for human rights defenders working on the front line of what it sees as rights abuses and injustice, and notes the belief that their voices should be integral to law and policy development in Scotland and across the world.

## **Background**

Human Rights Day on the 10<sup>th</sup> of December marks 75 years since the United Nations (UN) adopted the Universal Declaration of Human Rights (UDHR). The Declaration laid the groundwork for internationally recognised and respected human rights standards for all people and nations. 2023 also marks 25 years since the UN General Assembly adopted the Declaration on Human Rights Defenders, universal standards for the protection of all people who advocate for human rights and the 30<sup>th</sup> anniversary of the Paris Principles, which set the standards for independent, effective, and robust National Human Rights Institutions (NHRIs).

Ahead of the Scottish Parliament's debate, this briefing sets out the Commission's work as Scotland's NHRI to promote and protect the human rights of people in Scotland, in accordance with the Paris Principles. We cover:

- 75 years of the Universal Declaration
- Latest research from the Commission on attitudes to human rights in Scotland
- 30 years of the Paris Principles, which mandate NHRIs as part of the UN monitoring system
- About the Scottish Human Rights Commission – current priorities and human rights concerns
- Strengthening human rights in Scotland

## **About the Scottish Human Rights Commission**

The Scottish Human Rights Commission – also known as ‘the Commission’ or the SHRC – was established by an Act of the Scottish Parliament in 2006 to promote and protect human rights in Scotland. We have a general duty to promote awareness, understanding and respect

for human rights and, in particular, to promote best practice in relation to human rights.

The Commission has a number of powers to advance the understanding of human rights. These include publishing advice, guidance and ideas; conduct research and provide education and training; review and recommend changes to any area of Scots law, policy or practice; conduct inquiries complying with certain requirements; intervene in civil court proceedings and enter places of detention, subject to certain requirements.

Each year we publish an annual report that sets out how we have worked to advance the understanding of and adherence to human rights. [Our Annual Report 2022-23](#) sets out our ambitions as Scotland's human rights watchdog to ensure accountability for all human rights.

## **75 years of the Universal Declaration**

Over 75 years, [the Universal Declaration of Human Rights](#) (UDHR) has acted as common framework for human rights. The Declaration was the first international statement of fundamental human rights to be universally protected. Examples of the essential standards it sets out include the right to life, liberty, and security of person; the right to recognition everywhere as a person before the law; and the right to an effective remedy for rights violations. International and regional legal systems of treaties, courts, experts and forums have been built on the UDHR's foundations. This includes UN treaty bodies and the European Court of Human Rights.

## Public Attitudes to Human Rights in Scotland

Marking the 75<sup>th</sup> anniversary, this Human Rights day, the Commission published new research which shows that support for human rights has increased by six per cent since 2017 to 48% of Scots. The research found that:

- There is an increase in concern from people about experiencing fewer human rights in Scotland, with 60% 'worried', compared to 52% in 2017.
- A third of Scots either believe the Scottish Government should do more (33%), or is doing enough (32%)
- Fewer Scots would know who to contact about a human rights issue now (22%) than in 2017 (27%)
- Many Scots expressed concerns about the human rights protections of people living in vulnerable situations and considered the rights of minority groups and people living in poverty to be under threat.

The full report [Attitudes to Human Rights in Scotland](#) can be accessed on our website.

## 30 years of the Paris Principles

In addition to the anniversary of the UDHR, this year marks 30 years of Principles Relating to the Status of National Human Rights Institutions (the 'Paris Principles'). NHRIs are important institutions which act as the 'bridge' between domestic and international human rights. The UN recognises that NHRIs that meet the Paris standards are credible and independent voices on human rights in a particular country. The SHRC was re-accredited with an A-Status in 2021.

As universal standards, the Paris Principles acts as set of criteria for evaluating NHRIs. They set out the minimum standards that NHRIs must meet in order to be considered credible and to operate effectively. These standards require NHRIs to have:

- Broad mandates
- Broad functions

- Independence from government
- Pluralism
- Adequate powers
- Adequate resources
- Cooperative working practices
- International engagement

The UN endorsed the principles in 1993 and continues to strongly encourage all States to establish or strengthen an NHRI in compliance with the Paris Principles. Having a Paris Principles compliant NHRI is an indicator of compliance with the UN's Sustainable Development Goals and with the rule of law.

### **Scottish Human Rights Commission key human rights priorities 2023-24**

The Commission adopted a Transition Plan in March 2023, reflecting the Commission's external environment, the arrival of new leadership in the Commission and the need to strengthen the operations and governance of the Commission ready for the opportunities ahead. The Commission has also marked a shift from informing policy to directly monitoring human rights denials and potential violations. It has identified key areas of spotlight focus for 2023-24 which are:

- Access to Justice
- Human rights of prisoners, with a focus on access to mental health support
- Human rights of people who have learning disabilities and autism who are detained in hospital and group settings
- Economic, Social and Cultural Rights of people in the Highlands and Islands

These priorities reflect our concerns about access to justice and to effective remedies for violations of human rights in Scotland. These critical human rights considerations are front and centre of the UDHR, and yet our December 2023 research found that fewer people in Scotland know where to get help about human rights issues.<sup>1</sup> Our wider

insight was considered in our [At A Crossroads](#) paper and has been a key feature of human rights monitoring this year.

As an A-status NHRI accredited to provide independent reporting of implementation in Scotland of international human rights treaties, we have submitted human rights monitoring reports to the United Nations on disabled people's rights and economic social and cultural rights. We will soon publish research on the human rights of women who experience gender-based violence in response to the Council of Europe's baseline assessment of the Istanbul Convention. These reports have shown slow progress to fully realise human rights in Scotland, often despite good policy or legislative intentions. This is of concern to the Commission and is informing how we now prioritise our resources and mandate moving forward.

Work on the Commission's fifth strategic plan for the period 2024-28 is currently underway, including a public survey and event to hear from our stakeholders about their expectations for a robust NHRI. The draft plan will be shared with SPCB in late January, as required by our mandate, and laid before Parliament by 31<sup>st</sup> March 2024.

## **Strengthening human rights in Scotland**

The Scottish Government and members of the Scottish Parliament are making efforts to strengthen human rights domestically. Incorporation of the UNCRC - an international treaty setting out the rights that children and young people are entitled to and ratified by the UK in 1991 - will mean that public authorities and decision makers in Scotland will be legally obliged to respect children's rights by designing policies, budgets and services that fulfil its obligations. The successful reconsideration of the UNCRC into Scots law shows that it is possible to achieve landmark progress in achieving greater accountability in law for human rights in Scotland.

The UNCRC experience offers a framework to consider the Scottish Government's commitment to incorporation of further international human rights treaties into Scots law, via the Scottish Government's proposed Human Rights Bill for Scotland, to achieve the greatest

possible protection and promotion of human rights in Scotland within the scope of devolved competence.

“The new Human Rights Bill for Scotland is a landmark opportunity to consider what is needed to build a country where all people can live with human dignity. The opportunity to strengthen human rights obligations in Scots Law presents a moment to reflect on the whole system – legislation, policy and resources – required to make human rights real.

“We hear all too often that when it comes to human rights in Scotland, the warm words of rhetoric rarely match the harsh reality of lived experience.

“In the year 2022 to 2023 the Commission has refocused its priorities on addressing this gap, undertaking a major programme of operational and strategic transformation to support the realisation of a society where everyone can name and claim their rights.

“We look forward to working with and for the people of Scotland to bring their rights to life in the year ahead”.

Claire Methven O’Brien, Jim Farish, Shelley Gray

Members of the Scottish Human Rights Commission

## **The future role of the SHRC in strengthening human rights**

A strong NHRI is essential to ensure accountability for human rights. Recognising the challenges of ensuring access to justice and to effective remedy, the Commission is actively considering how we can ensure that we have the powers and resources to ensure that everybody’s human rights are protected. The SHRC has a broad mandate, and modest resource to deliver our work, which has been noted by the UN accreditation process as an area of concern.<sup>2</sup> Additionally, the legal powers that we currently have are subject to strict conditions, unlike other NHRIs in the rest of the UK. The UNCRC Act will give the Scottish Human Rights Commission new powers to take legal action in our own

name in relation to children’s rights – the first time it has been granted such powers.

This is a welcome development, and we look forward to working to implement these new powers; the first opportunity to evolve the mandate of the Commission since 2006.

## **The Human Rights Accountability Gap**

The Commission has noted the series of proposals from campaigners, MSPs, the Scottish Government and civil society alike to create new commissions or commissioners representing a range of people and themes. For example, the current proposals include a Future Generations Commissioner, an Older People’s Commissioner, a Disability Commissioner and a Wellbeing and Sustainable Development Commissioner.

In June 2023, we published [At a Crossroads - which way now for the human rights system in Scotland?](#) In this paper, we reflect on the real life experiences behind this trend. We consider why persistent challenges to accessing justice, or, a failure to see policy intent improve lives, may be leading to dissatisfaction with the current human rights framework; and ask what can be done now to build a system where everyone in Scotland can name and claim their rights.

In an already cluttered and complex landscape for people to access justice, it will be important for the Scottish Parliament to consider the broader picture in the process of developing new public bodies, and not just the merits of each proposal.

We urge a national, cohesive approach to ensure the most important outcome is achieved: that people in Scotland are better supported to access justice for their human rights and public bodies are better supported to deliver public services which promote and protect human rights.

## **The Scottish Commission for Human Rights Act 2006**



The mandate and resource of the SHRC has not been revisited since 2006. As part of our work to respond to the Scottish Government's consultation on its Human Rights Bill, we have argued<sup>3</sup> that in order to fully protect human rights, as a minimum, our mandate should be amended to enable it with the following functions and powers to:

- Provide legal advice
- Raise legal proceedings in its own name
- Conduct investigations
- Conduct inquiries in less limited circumstances
- Require and compel information
- Make unaccompanied and unannounced visits to any human rights duty bearer
- Hold public hearings and require duty bearers to be present
- Issue binding guidance

There are two critical factors for these powers to be effective: a) sufficient resource must be allocated to the Commission to fulfil this mandate b) this mandate must be applicable to all human rights defined in the UK Human Rights Act 1998, and the International Human Rights Treaties as ratified by the United Kingdom, regardless of the incorporation approach adopted by the Scottish Government, in so far as possible.

As Parliament considers the 75th anniversary of the Universal Declaration on Human Rights, we encourage MSPs to also consider how a strengthened SHRC, properly enabled to fulfil its full mandate as the effective guarantor of all human rights in Scotland, could support closing the accountability gap for human rights in Scotland.

## **For further information**

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<sup>1</sup> [scottishhumanrights.com/media/2571/attitudes-to-human-rights-in-scotland.pdf](https://scottishhumanrights.com/media/2571/attitudes-to-human-rights-in-scotland.pdf)

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<sup>2</sup> [ganhri.org/wp-content/uploads/2021/08/EN-SCA-Report-June-2021.pdf](https://www.ganhri.org/wp-content/uploads/2021/08/EN-SCA-Report-June-2021.pdf)

<sup>3</sup> [A Stronger Human Rights Commission for Scotland \(scottishhumanrights.com\)](https://www.scottishhumanrights.com/)