

Scottish Government Debate - Demonstrating leadership in human rights

Thursday 13 December 2018

Our position

Seventy years ago the Universal Declaration on Human Rights was accepted by the United Nations General Assembly. Since then, despite many setbacks, great strides have been made both at home and abroad in the cause of human rights. From decriminalising homosexuality to preventing imprisonment without charge, human rights protection has fundamentally changed post-war Britain to create a safer, more open and inclusive society for all of us.

To a great extent, human rights have become enshrined in the daily workings of many of our institutions, from the police to our local councils. However, we must always work to progress and maintain the rights and protections we enjoy.

Many of Scotland's third sector organisations are at the forefront of upholding existing rights, championing the adoption of new rights and ensuring rights are recognised, understood, claimed and respected.

The Right Approach

Keen to ensure the third sector led by example in guaranteeing and championing human rights, in 2016 the Scottish Council for Voluntary Organisations (SCVO) produced the Right Approach campaign to promote and encourage human rights-based approaches in the Scottish third sector.

Taking a human rights based approach is about making sure that people's rights are put at the very centre of policies and practices. The [PANEL principles](#) are one way of breaking down what this means in practice (**P**articipation, **A**ccountability, **N**on-Discrimination, **E**mpowerment, **L**egality)

In essence, better outcomes for all can be achieved if decisions are made with human rights fully in mind. A good example of a rights-based approach in action in a health and social care setting can be found [here](#).

SCVO's Right Approach campaign produced materials to help voluntary organisations take a rights-based approach to:

- promoting gender equality
- integrating health and social care
- tackling mental health stigma
- combatting food insecurity
- ensuring children have a voice in decision making
- tackling poverty through involving people with direct experience
- empowering individuals with dementia

Brexit

During engagement events and in our 'State of the Sector' survey, the threat to human rights posed by Brexit has been raised as a fundamental concern. 80% of survey respondents believe leaving the EU will negatively impact rights and equalities. Similarly, 86% of respondents feel leaving the EU will negatively impact the Scottish Economy, effecting public spending, disposable income, charitable giving and, subsequently, funding for many third sector organisations who often support vulnerable communities.

Scotland's voluntary sector has grave concerns about potential human rights regression in the UK and the erosion of EU migrants' rights – particularly that they will have to pay to secure the rights they already enjoy and the removal of local election voting rights.

Loss of oversight from, and recourse to, the European Court of Justice will remove a layer of rights protection from UK citizens, whilst a continued unwillingness to confirm the status of EU nationals leaves those resident in the UK in a precarious situation.

The inclusion of statutory instruments (so called Henry VIII powers) in the European Union (Withdrawal) Act is also of considerable concern. With there likely to be an unprecedented use of these powers, this creates a risk that rights are accidentally or deliberately removed.

The Human Rights Consortium Scotland (HRCS) have developed a series of briefings covering a range of matters relating to human rights protections and the potential threat posed to these by the UK's withdrawal from the EU:

- [Brexit and the Continuity Bill](#)
- [Brexit and EEA Citizen Rights](#)
- [Brexit and Equality Rights](#)
- [Brexit and Human Rights](#)
- [Brexit and Employment Rights](#)
- [Brexit and the Environment](#)
- [Brexit and Transition](#)
- [EU Withdrawal Bill: Key areas of proposed amendment](#)
- [Brexit and Women's Rights](#)

Scotland Declaration on Human Rights

SCVO has worked with HRCS to draft and promote the [Scotland Declaration on Human Rights](#) – which calls for rights to be protected and advanced, whatever the Brexit outcome.

Many third sector organisations are very concerned about the potential loss of equality and rights protections due to Brexit. As the UK's relationship to the EU changes, there is increased risk that legal rights framework is weakened. There is also concern about the continuing negative rhetoric around rights in the UK.

Through this campaign, we want to send out a clear message to policy makers across the UK and beyond, that organisations in Scotland view equality and human rights as vital to our society and that we do not want these rights to be reduced. Instead we want to see them strengthened and growing. We also want transparency and participation to underpin all discussions on legal rights.

To date, 170 civil society organisations have added their voice to the declaration.

UN Special Rapporteur

In November 2018, the UN Special Rapporteur on extreme poverty and human rights Philip Alston, visited the UK and Scotland. In advance of his visit, the Special Rapporteur invited written submissions on issues related to poverty and human rights.

[SCVO's response](#) was been developed openly with input from Scotland's third sector. Key themes contained include: Poverty, austerity, legal protections, Brexit, digital inclusion and the impact of on the ability to realise human rights.

Social Security

While there is much to be positive about with regard to Scotland's approach to new social security powers and the desire to embed 'dignity, fairness and respect' at its heart, there remain options to more fully pursue a rights-based approach.

On Thursday 08 February 2018, during Stage 2 considerations of the Social Security (Scotland) Bill, the Social Security Committee amendment placing a duty on Ministers to have 'due regard' for the international human right to social security. This amendment was not agreed to.

Drafted by human rights experts at the Scottish Human Rights Commission (SHRC) and supported by a raft of civil society organisations; failure to pass this amendment represented a missed opportunity to make Scottish legislation an international example of good practice in protecting human rights.

In his recently published report, Professor Philip Alston, United Nations Special Rapporteur on extreme poverty and human rights, [made reference](#) to Scotland's Social Security System and human rights:

“The absence of a legal remedy or a more robust reference to international standards in the Social Security (Scotland) Act is significant and should be addressed. I will be following closely the forthcoming recommendations from the First Minister’s Advisory Group on Human Rights.”

The recommendations of the First Minister’s Advisory Group on Human Rights were published on Monday 10 December and [stated](#): *“The human rights-based approach taken towards the development of the Social Security (Scotland) Act 2018 can be built upon and further developed.”*

We agree with this assessment and hope that, as Scotland’s Social Security system evolves, proper ‘due regard’ measure can be introduced – placing a duty on Scottish Ministers and all public authorities to pay attention to the internationally established right to social security when implementing devolved social security powers. Such a duty would also mean courts and tribunals would be required to take full account of this right when making decisions regarding social security.

About us

The Scottish Council for Voluntary Organisations (SCVO) is the national body representing the third sector. There are over 45,000 voluntary organisations in Scotland involving around 138,000 paid staff and approximately 1.3 million volunteers. The sector manages an income of £4.9 billion.

SCVO works in partnership with the third sector in Scotland to advance our shared values and interests. We have over 1,600 members who range from individuals and grassroots groups, to Scotland-wide organisations and intermediary bodies.

As the only inclusive representative umbrella organisation for the sector SCVO:

- has the largest Scotland-wide membership from the sector – our 1,600 members include charities, community groups, social enterprises and voluntary organisations of all shapes and sizes
- our governance and membership structures are democratic and accountable - with an elected board and policy committee from the sector, we are managed by the sector, for the sector

- brings together organisations and networks connecting across the whole of Scotland
- SCVO works to support people to take voluntary action to help themselves and others, and to bring about social change.

Contact

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