



Karen Adam MSP
Convener
Equalities, Human Rights and Civil Justice Committee
The Scottish Parliament
EH99 1SP

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Equalities human rights and civil justice committee session 6 legacy report

Dear Convener,

As the current parliamentary session concludes, I wish to highlight legislative and policy areas that Amnesty International UK believes require continued action in the next Parliament.

The Equalities, Human Rights and Civil Justice committee included the following issues in its work programme over the course of the session. I hope that you will consider recommending them as areas of sustained focus to your successor committee, so that the work of advancing equality and human rights is continued and built upon.

- 1. Seek an update on the development of the Scottish Human Rights Bill and call for the introduction of legislation within the first year of session seven.¹ Scrutinise any draft legislation with the aim of ensuring that the bill's protections are as comprehensive and robust as possible within the limits of devolved competence.**

The incorporation of further international rights treaties via a Scottish Human Rights Bill (the bill) was a Programme for Government commitment. In 2024 the Scottish Government announced that the bill's introduction would be delayed and instead introduced following this year's election (subject to the result).

While development of the bill has continued since 2024, current proposals must be clarified and strengthened. Amnesty's recommendations were summarised in a briefing to the committee dated December 2025, which I have enclosed here.

We recognise the limitations on the scope of incorporation following the Supreme Court's judgment on the UNCRC (Incorporation) (Scotland) Act. Amnesty understands that one of the ways forward would be an amendment of the Scotland Act. However, the lack of progress on this, and related talks with the UK government,

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necessitates serious consideration of what more can be done at the devolved level to ensure the Human Rights Bill is a strong transformative law.

Amnesty and others are working to secure broader political support with the aim of ensuring that rights incorporation is progressed in session seven, regardless of the composition of the government. If the current government also forms the next government, your successor committee will have a vital role in holding ministers to account for the clear commitment made to introducing a Human Rights Bill.² However, regardless of the election result, incorporation should be a natural area of focus for all MSPs and committee members as human rights guarantors.

We urge you to recommend that your successor committee maintains a focus on the introduction of a Human Rights Bill early in session seven of parliament and works to ensure the legislation places strong duties upon public bodies to fulfil and uphold the rights contained within incorporated treaties³.

2. Scrutinise progress on children’s rights and implementation of the UNCRC (incorporation) (Scotland) Act

Last year the Scottish Government chose to draft the Children (Withdrawal from Religious Education and Amendment of UNCRC Compatibility Duty) (Scotland) Bill so that Part 1 is out of scope of the compatibility duty in the UNCRC (Incorporation) (Scotland) Act 2024. This decision dilutes current protections and allows public authorities to act incompatibly where they claim a conflict with another duty. It was a clear divergence from the maximalist approach the Scottish Government committed to upon the introduction of the UNCRC Incorporation bill.

The EHRCJ’s successor committee will have a key role to play in scrutinising future legislative efforts and in ensuring they are used to pursue the full potential of UNCRC incorporation, rather than weaken its reach and impact.

3. Maintain oversight of work to improve access to justice, particularly in relation to legal aid reform, and ensure that scrutiny of a draft human rights bill carefully examines how access to justice will be expanded and improved to support implementation of the new legislation.

Concerns about the systemic barriers in accessing justice in Scotland are well documented in research by the Scottish Human Rights Commission, human rights and equalities organisations, and the EHRCJ Committee itself.⁴ Significant

² https://www.gov.scot/publications/summary-human-rights-bill-scotland-discussion-paper/?utm_source=chatgpt.com

³ Proposals are for the incorporation of the International Covenant on Economic, Social and Cultural Rights (ICESCR); the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW); the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD); and the Convention on the Rights of Persons with Disabilities (CRPD)

⁴ The SHRC has spotlighted access to justice through a series of reports: <https://www.scottishhumanrights.com/projects-and-programmes/spotlight-projects/access-to->



improvements to both the administrative and legal systems must form the foundations of human rights progress in Scotland. We note that there have been reviews of the legal aid system which have identified a need to significantly reform the system in order to improve access to justice. The lack of movement in the area is incredibly frustrating – the changes have been identified but the work is not being done to improve the system.

Amnesty agrees with the EHRCJ Committee that the Scottish legal aid system has been underfunded for many years, and the next Scottish Government must commit to ensuring that the system is fully resourced and equipped to meet demand.

More broadly, provision of information, advice, representation and independent advocacy must improve, and scrutiny bodies must be resourced and required to take a human rights-based approach to their work.

The EHRCJ's successor committee should closely monitor progress on legal aid reform and ensure that scrutiny of a draft human rights bill carefully examines how improvements to legal and administrative routes to remedy will be implemented in tandem with the bill's development.

4. Pursue progress against the EHRCJ Committee's 2022 recommendation for a ban on conversion practices.

Conversion practices can constitute torture or cruel, inhumane and degrading treatment and have no place in society. Despite multiple promises from the UK and Scottish governments, LGBTI people are still waiting for a ban. The current Scottish Government consulted on proposals for a statutory ban in 2024 but decided to pause plans to introduce its own bill in favour of waiting for UK-wide law, which would take a 'four-nations approach'.

If agreement on a UK-wide approach cannot be reached, the current Scottish Government has committed to publishing its own Bill in year one of the next Scottish Parliamentary session. The EHRCJ's successor committee should focus on holding ministers to account for upholding that commitment if the current government forms the next Scottish Government. In the event that an alternative party or parties form the government, your successor committee must still act to ensure that the EHRCJ committee's evidence-based recommendation for a ban is taken forward.

[justice-for-potential-human-rights-breaches/](https://www.hrcscotland.org/file-download/235/HRCS_Make_Human_Rights_Justice_a_Reality_40pp_v5_digital.pdf); in 2023 HRCS, JRS et al published a report on making human rights justice a reality https://www.hrcscotland.org/file-download/235/HRCS_Make_Human_Rights_Justice_a_Reality_40pp_v5_digital.pdf



5. Further issues of relevance to the equalities and human rights remit are:

Abortion law reform - Access to safe, legal and local abortion services underpins a wide range of fundamental human rights, including the rights to life, health and bodily autonomy. The current Scottish Government commissioned an Expert Group on Abortion Law Reform which reported in November 2025. The group made a package of recommendations aimed at modernising abortion law by removing it from criminal law and regulating it as healthcare. While it is likely that a parliamentary committee with a health remit will lead on scrutiny, the EHRCJ's successor committee should monitor progress against the expert group's recommendations.

Live facial recognition technology - Live facial recognition is not yet operationally deployed across Scotland but is being explored by Police Scotland. Facial recognition constitutes mass surveillance, risks discrimination, threatens privacy and protest rights, and lacks adequate legal safeguards. Amnesty International strongly opposes its introduction and has called for Police Scotland and the Scottish Police Authority's plans to be abandoned and for the next Scottish Government to introduce a statutory ban on the technology's use by law enforcement. The Scottish Parliament's Criminal Justice Committee has proactively engaged with the SPA on this issue and while it is likely that a committee with a similar remit would lead on scrutiny of any plans or legislation next session, the EHRCJ's successor committee should actively seek involvement in scrutiny.

Anti-SLAPP legislation – In November 2025 the Scottish Government agreed that the law needs to be reformed to address SLAPPs (Strategic Litigation Against Public Participation). Amnesty International UK strongly believes that anti-SLAPP legislation should be introduced in Scotland. We view SLAPPs as a serious threat to human rights, as they often seek to infringe on people's rights to freedom of expression, association and peaceful assembly, as well as the right to defend human rights. The committee should consider examining any proposals and legislation on SLAPPs given the human rights concerns with this area of law.

Yours Sincerely,

Neil Cowan

Scotland Programme Director
Amnesty International UK



Briefing: The Development of a Human Rights Bill for Scotland

Introduction

A Human Rights Bill incorporating four UN treaties alongside the right to a healthy environment into Scots law was a manifesto commitment of the current Scottish government. In 2024 it was announced that the bill would not be introduced in this parliament but that officials and ministers would use the remainder of the term to continue its development.¹

In June 2025 the government published a ‘Discussion paper’ setting out progress on the bill’s development and continued engagement with civil society.

This briefing sets out Amnesty International’s recommendations to the Scottish government on the bill’s development as of December 2025.

Summary

Throughout the development of the Human Rights Bill Amnesty’s priority has been to ensure that incorporation in Scotland is led by and results in tangible improvements for rights holders. This briefing contains Amnesty’s reflections and recommendations in relation to current proposals and next steps the Scottish government must take in the bill’s development in the final months before the parliament’s dissolution.

Providing clarity on scope of applicability of the Bill’s duties should be a priority, not just in relation to the CERD CEDAW and CRPD, but also to ICESCR. Amnesty remains of the view that some rights contained in the so-called Group Protection Treaties (GPTs), particularly the CRPD, fall under devolved competence and should be covered by a

¹ The reason given for the delay by the Cabinet Secretary was as follows: “The recent change in UK Government presents, for the first time in 14 years, an opportunity to engage constructively on improving the proposed Human Rights Bill, including the scope of its proposed duties which have been so affected by the constraints of devolution highlighted by the UK Supreme Court’s ruling.” (Letter to HRCS, Amnesty International et al: <https://www.hrcscotland.org/file-download/307/human-rights-consortium-432494.pdf>)

The Scottish government must make sure it doesn't create additional barriers to implementation by proceeding with legislation that would be incompatible with treaty rights -both in relation to the UNCRC Act and the Human Rights Bill. Stakeholders have warned previously that this bill cannot be developed, introduced and passed in a silo. A clear statement from the First Minister issued across portfolios reaffirming the importance of legislation acting compatibly with treaty rights and international obligations would be helpful.

Recommendations

Scope and duties

- Set out clearly which rights within ICESCR will be covered by the compliance duty
- Provide an update on talks with the UK government and what steps have been taken to explore solutions to competency barriers
- Begin a legislative review of Acts of the UK Parliament covering devolved functions which engage ICESCR and GPT rights with the aim of identifying which laws may need to be brought within scope of the Human Rights Bill
- Provide clarity on which duty bearers it is currently proposed the equality duty will apply to.
- Amend proposals in relation to the equality duty allowing ministers to remove grounds. While it is important to keep pace with advances in international standards and terminology, this should be possible without including an explicit power to remove specific groups
- Include a clear link between the Minimum Core Obligations and approaches to budgeting to ensure that resources are allocated to urgently address areas of life in which human rights are most at risk in Scotland.

Right to a Healthy Environment

- Little progress has been made on setting out clearly how this right will be implemented. The Scottish government must provide clarity on how victims of environmental rights breaches will access justice, particularly as this has been identified a systemic problem in Scotland.
- Given the urgency of the climate crisis, it is essential that the rights to a healthy environment and access to environmental justice are immediately enforceable and not considered to be subject to progressive realisation.

Remedies

- Insufficient consideration of the right to an effective remedy was a significant criticism of the bill proposals as presented in 2023 and a lack of clarity remains within the discussion paper. The right to an effective remedy should be contained on the face of the Bill.
- It is unclear how public interest litigation will be supported through the provisions of the Bill. The Scottish government has ruled out including specific provision for groups or organisations to raise, defend or intervene in proceedings, however the stated reasoning that no such provision is attached to the UNCRC or HRA isn't a satisfactory explanation in itself.
- The decision to exclude criminal proceedings from the rights and duties in the bill must be revisited. Serious rights breaches in Scotland's criminal justice system have been repeatedly identified, including in relation to access to healthcare, food and access to justice.
- Amnesty is concerned by what appears to be an increasing tendency towards utilising 'carve outs' in legislation to avoid acting compatibly with human rights obligations (see also the proposed Children (Withdrawal from Religious Education and Amendment of UNCRC Compatibility Duty) (Scotland) Bill)

Legislation and compliance questions

- A strike down power for courts in relation to incompatible legislation is not taken forward in these proposals as it is in the UNCRC Act. This represents a step back from the approach taken in the UNCRC Act and is particularly concerning given the pre-existing challenges in relation to access to justice. This approach risks diluting the effect of court decisions resulting in weaker outcomes for those taking legal challenges and should be reconsidered.
- When reviewing new legislation no statement of compliance will be required from ministers and MSPs for SSIs that engage incorporated ESC rights. Again, this differs from the UNCRC and risks creating gaps in the Bill's coverage.
- The aim to ensure oversight bodies help to enforce compliance with the core duties in the bill risks being undermined by the significant degree of discretion the proposals afford to those bodies in the exercising of this duty together with non-binding ministerial guidance.
- Oversight bodies should be properly resourced in terms of budget and expertise to scrutinise public bodies' fulfilment of the Bill's duties. Where it is lacking, such expertise must be developed prior to implementation. A lack of capacity or expertise should not be a justification for weak oversight once the Act comes into force.

Human Rights Scheme

- The publication of a Human Rights Scheme would be a positive step, however more clarity on the requirements and goals of the scheme should be developed in consultation with people with lived experience.

Next Steps and delivery plan

The June 2025 Discussion paper lists multiple areas which still require further thinking and development, including in relation to:

- The scope of the bill and constitutional limitations
- The 'group protection treaties'
- Right to a healthy environment
- Minimum standards
- Participatory process
- Judicial remedy and legislative incompatibilities
- Proposals for changing the powers of the SHRC and the CYPCS

It is helpful that a clear assessment of where further thinking is required has been provided however, many of the examples listed above are complex areas which have been under consideration for some time. One of the primary reasons for delaying the bill was to explore the 'GPTs' and scope with the new UK Government however little progress has been made in this area.

The delivery plan should seek to address the scope of the bill and its duties as an urgent priority. As set out above, if negotiations with the UK government do not resolve challenges associated with devolution constraints and the UK Supreme Court's ruling on the UNCRC Act, ministers must be willing to move forward with action at the devolved level. The delivery plan should include detail on what steps can be taken by the Scottish Parliament to broaden the coverage of the Bill.

