

An independent advisory group appointed by the First Minister has proposed an additional human rights framework which aims to: protect existing rights and establish new rights in Scotland by incorporating international human rights treaties.



## WHAT ARE HUMAN RIGHTS?

- Human rights are the fundamental freedoms and rights which everyone is entitled to.
- The United Nations define human rights as the 'inalienable' and 'equal' rights of all people as 'inherent to all human beings, regardless of race, sex, nationality, ethnicity, language, religion, or any other status'.
- The Universal Declaration of Human Rights (UNDHR) was declared in 1948, setting a standard for all nations and all peoples to live by within every aspect of life, including declarations such as the right to a fair trial, right to adequate standard of living, right to a nationality and right to equality before the law. It is thus recognising basic rights which could be measured against international human rights law (which is designed to protect people and their rights).



## HUMAN RIGHTS IN SCOTLAND

At present, the human rights of citizens in the UK and Scotland are protected by:

- Human Rights Act 1998 – This act incorporates the European Convention on Human Rights (ECHR) into the domestic law of UK and Scotland
- Scotland Act 1998 – This act, among other things, imposes stricter Human Rights controls on Scottish public institutions.

Through the Acts, citizens can hold the Government to account and ensure that all people are treated fairly with dignity and respect and make legal challenges in domestic courts when this is not the case. However, these provisions cover civil and political rights, but still excludes some social, economic, cultural and environmental rights, meaning there is certain hierarchy given to certain rights. (e.g. the right to vote is given greater priority than the right to housing). However, these rights are inter-dependent and indivisible, for example, fulfilment

of the right to health may depend on fulfilment of the right to development, to education or to information.

The Scottish Declaration on Human Rights represents a civil society joint statement which sees equality and human rights at the heart of Scottish society, aiming to send a clear message to policy makers that in the face of Brexit and other uncertainty, these rights must be protected.

## THE EFFECT OF BREXIT ON HUMAN RIGHTS

After Brexit, the Charter of Fundamental Rights of the European Union (EU Charter) will most likely cease to apply, while the ECHR will remain in force. The EU Charter currently provides a layer of protection of rights. (e.g. a range of social and workers' rights, including the right to fair working conditions, protection against unjustified dismissal, and access to health care, social and housing assistance.) Most of the provisions of the ECHR are also domestic law in Scotland. The EU Charter is broader in scope in terms of the rights that it protects. The loss of the EU charter may make repeal of the Human Rights Act 1998 easier. The Scottish Parliament recently sought to protect the EU Charter with the EU (Legal Continuity) (Scotland) Bill. However, this bill was deemed by the Supreme Court to be out with the competences of the Scottish Parliament. Some are concerned that Brexit could lead to a weakening of human rights protections in the UK and Scotland and the repeal of the Human Rights Act 1998 remains a possibility.

## DISCUSSION POINTS

- Previous use of international human rights treaties in Scotland (e.g. Leith Housing Project)
- An additional human rights framework for Scotland?
- Community rights to a healthy environment?