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**SPEAKERS**

Lucy Miller

00:04

You're listening to human rights 2020s a podcast from the Human Rights consortium Scotland. This episode is a recording of an event called Scotland's program for government. What does it mean for human rights, held on the 26th of September, 2024 this was a virtual discussion about the Scottish Government's latest program for government and its impact on human rights. The speakers were Lucy Miller from the consortium. Neil Cowan from Amnesty International Scotland. Pete Richie from nourish Scotland. Shebali Fifield from environmental rights center for Scotland. Joette Harris from together Scotland. Pauline Nolan from inclusion Scotland. Rob gowins from Health and Social Care Alliance Scotland. Kimberly Wong from crear and Professor Nicole Busby from the University of Glasgow. We hope that you enjoy this episode.

**Lucy Miller** 01:02

So good afternoon, everyone. Thank you for joining us on your lunch today. We really, really appreciate that. So just going to dive into it. We have a very busy program of nine speakers today, and as we reflect on the Scottish Government's program for government, it's important to acknowledge both the opportunities it presents and the disappointments we must grapple with, especially when it comes to human rights. At the Human Rights consortium Scotland, our core mission is clear, we exist to defend and advance human rights for all we bring people together, such as today, to amplify the voice of civil society in Scotland, and it's this voice that challenges government, informs public debate and pushes for transformative change through events, strategic collaborations, media work and projects like our migrants Human Rights Initiative, we aim to ensure that everyone in Scotland has their rights protected and realized. Over this past year, we've worked with over 700 organizations, from grassroots groups to national bodies, all united in their belief that human rights are fundamental to a just and equal society. And today, with the backing of over 220 organizations within our network, many of whom share a sense of frustration. We are at the point where the Scottish Government have taken the decision to delay the long awaited Scottish human rights bill. Let me be clear when I say that this bill was never just another piece of legislation. It was and still is a bold vision for what Scotland could become, a nation where economic, social and cultural rights are as enforceable as our civil and political rights, where every person, regardless of their background or circumstance, can hold the state to account when their rights are denied. The bill promised to incorporate key international treaties, including the International Covenant on Economic, Social and Cultural Rights by cesker, the Convention on the Rights of Persons with Disabilities and the International Convention on the Elimination of All Forms of Racial racial discrimination, along with incorporating the right to a healthy environment, incorporating these treaties into Scots law would have transformed how we view public services, from housing and healthcare to education and social security. It was about ensuring that every decision made by public bodies would respect and protect these rights. Unfortunately, the 2024, 25 program for government does not include this bill. While this not this might not come as a complete shock to some, given the Scottish Government's cooling rhetoric on human rights in recent months, it is still a deeply disappointing moment for those who have dedicated years of advocacy, research and collaboration to see this vision realize. Civil society organizations across Scotland have invested valuable, often scarce resources into preparing for this legislation, believing that it would signal a new era for human rights in our country. The government's decision to delay this bill feels like a step backwards. It is a step backwards. It's especially a bitter pill to swallow, because we know that incorporating these rights would have had a profound impact on tackling the root causes of issues like poverty, inequality and discrimination. When we talk about the interconnection between gender and poverty or the disproportionate effects of disability and race on economic security. It's clear that human rights laws are not abstract. They are about real people's lives. What is particularly troubling is the contradiction we're seeing in the government's approach. On one hand, the program for government talks about a commitment to embedding equality in human rights across public services, with consultations, action plans and toolkits, but without the legislative power of treaty incorporation. These are at best half measures. In many ways, this should already be the aim of the Scottish Government, with or without a new framework. The real question is, why the government has chosen not to take the bold step of pushing for full incorporation. One explanation they gave us lay. And the legal challenges posed by the UK's supreme court's judgment on the United Nations Convention on the Rights of the Child or UN CRC incorporation bill, we all remember the unanimous passing that bill in 2021 only for it to be sent back to Holyrood by the Supreme Court for exceeding the Scottish Parliament's legislative powers. That ruling was a blow to the momentum behind human rights legislation, and it's clearly weighed heavily on the government's thinking here. But here's the thing, we cannot allow that legal roadblock to be the end of the story. The First Minister's commitment to eradicating child poverty, for example, rings hollow when the very legislation that could help address the systemic inequalities driving poverty, particularly gendered, racial and disability related poverty remain on hold. There is another explanation as well, the sense that the bill, as it was being drafted might not have gone far enough to meet the needs of those most marginalized in society. Stakeholders from disabled people's organizations, women right women's rights groups and anti racism advocates have voiced concerns that the draft proposals didn't fully address their issues. But this raises another important question at this point, why not build on what's possible now, and why not start the legislative process and work with civil society to improve it along the way? Instead, we're left with vague promises. Government assures us that it remains committed to future human rights legislation, but in the meantime, we are losing valuable time. The longer we wait, the longer we delay providing real mechanisms for people to challenge human rights violations in court. This is a setback that will be felt by those who are already at the sharpest end of inequality, disabled people, women, people of immigrant, minorities and those living in poverty that said, this is not a titan to lose hope. Civil society in Scotland has shown time and time again that we're resilient and determined. We at the consortium, firmly believe that the only way forward is to continue working together in solidarity to push for human rights for all. We will continue to engage with the Scottish Government, holding them to account in ensuring that human rights remains central to public debate, and while the program for government might not have given us the legislative action we'd hoped for, it doesn't close the door entirely. There are commitments to improving the public sector equality duty and to embedding equality and human rights more deeply across public services. These are steps in the right direction, but they're not enough on their own, we need to keep pushing for more, the full incorporation of international human rights treaties, an accessible Legal Aid system that ensures everyone can access justice and public services that truly reflect the dignity and worth every person. So as we look ahead, let's remember that this is a long journey set but setbacks can seem inevitable, but they do not define the final outcome. Our collective voice as civil society is stronger when we work together, and it is this voice that will continue to advocate for Scotland where human rights are not just words on a page but a lived reality for everyone. In addition to pushing on incorporation, the consortium will continue to engage with government on how they can push and implement recommendations from Scotland's national action plan on human rights, increase resourcing and improve the power of the Scottish Human Rights Commission through the UK's Human Rights Act, and push for better decisions around human rights budgeting so that rights based approaches are across all areas of government. Thanks for listening to me. Go on for a bit there. We now have a fantastic lineup of representatives from civil society who I will introduce one by one. Before they speak, they're going to give us quick five minute snapshots of what their organizations are going to do. First up, we have Neil Cowan, who is the program director at Amnesty International Scotland, and he's going to discuss Andy's Amnesty's response to the delay and civil society's next step, and how the Scottish Government's program for government will affect civil society's efforts to advocate for human rights. Thanks, Neil,

08:48

thanks Lucy, and thanks very much to the Consortium for asking me to speak. It's really good to be a part of the event, and I'm really looking forward to hearing all the other speakers have to say as well. So yeah. So Lucy asked me to talk about how the program for government affects civil society advocacy on human rights and next steps in terms of how we respond. And I'm going to do that while focusing on the human rights bill, because that was our big focus, and the run up the program for government. I think before I do that, I just want to talk a bit about the decision on the human rights bill and what it means, because that is obviously the context from which we move forward. And I think my first reaction on being told the news about the decision on the human rights bill was one obviously of enormous, enormous disappointment, but also anger, anger about the breach of trust that had taken place between government and civil society and communities. I think that's justified anger that I think a lot of us feel, but I think the real anger that we all feel stems from the fact that incorporation is something that would, as Lucy spoke about, very simply, make people's lives better, and that opportunity has not been grasped at this point. And in Scotland, we have over 1 million people living in the grip of poverty. We have a declared. International housing emergency. And just this week, we show we saw stats that showed that levels of homelessness in Scotland are at their highest ever level. And we all know that human rights violations continue to impact people on a daily basis in communities across Scotland. So I think there is a need just to be kind of really honest at the start, and that is that the decision to break the promise on bringing forward the human rights bill was a pretty dreadful and even actively bad decision, and it was a missed opportunity to make people's lives better. And it's a decision that, again, as Lucy touched on acts in total and direct opposition to the Scottish Government's stated priorities. And it is, I think, extremely difficult to be told that the bill still remains a priority when it so obviously has been deprioritised. And it's extremely difficult to be told that the Scottish Government remains just as committed to incorporation as it was before, when that commitment has so clearly, for now, at least waned. And so we are being asked to accept a kind of version of reality in which the decision to kick the bill into really the longest of grass, isn't actually that, but it's actually decision that's been made somehow in the name of further strengthening human rights. And I think I find it difficult to kind of accept that version of reality. And I think if the bill was a true priority, and if the Scottish Government's commitment was actually unwavering, then the bill would and could have been brought forward. And I think it is as that simple. This was a political decision that was about the political context and political priorities. And I think we do need to be clear about that before we reflect on what we as civil society organizations and campaigners who are advocating for incorporation actually do so in terms of what we do do. I think there's a number of things that we need to think about. So I think about. So I think in the short term, I think we do need to have a serious reflection on our ongoing engagement with the Scottish Government's processes around the bill. So those processes can be time and energy and capacity consuming, and I think it's fair to say that a lot of trust in those processes has been lost, given that we are where we are after the program for government, I think there is a question over whether our energies are best expended there or via other routes. And I'm not saying we need to not engage at all. Of course we will need to, but only when it feels like it's actually going to lead to progress, and when it feels kind of strategically right to do that. I think we also need to be looking ahead and building the pressure on all parties to include a commitment to incorporation and the 2026, manifestos. And that's not going to be an easy task. It's a very different task to the one that's been required in the last few years, and it will mean expanding and deepening our engagement across the political spectrum, so developing political relationships with politicians or policy makers or parties who are perhaps currently, maybe indifferent to or even unaware of the potentially transformative nature of incorporation. But we need to be making that case to them, and the challenge that we have to meet is making it politically impossible not to introduce the human rights bill following the next Scottish Parliament elections. So how do we ensure that whoever is in power feels like the move towards incorporation is a tide that they can hold back, and that's a big challenge, and it'll require a sustained and deep coalition working, and that coalition working already exists and works well, but we really need to deepen it and also to reach out across different swathes of civil society, to engage more organizations, more communities, more campaigners, new and different voices and the movement of incorporation. And we may also need to look at adjustments in strategy and tactics and messaging. So maybe we need to be clearer and firmer, more direct, maybe even for some of us, more confrontational in our approach. But we do need to be thinking about how we can make our case in the clearest, most powerful, most impactful way that incorporation is a huge piece in the puzzle of making Scotland a more just place to be for everyone. And all of that is a challenge. It's a really big challenge, but it's one that we, absolutely, as civil society, as campaigners, can meet, and that really we have to meet. I think that's probably my five minutes done. So I will hand over. I'll hand back over to Lucy at that point, but thank you very much for inviting me to be a part of this today.

**Lucy Miller** 14:08

Thanks, Neil. I really loved your point about making this a political impossibility for the government not to push through, and I think that's something we should all keep at the top of our minds. Again, this is very quick fire, so I'm just jumping to the next speaker, who is Pete Richie, the executive director at nourish Scotland. He's going to highlight the progress made by the Right to Food coalition and how it relates to the current program for government. He'll discuss the challenges ahead for securing the right to food and Scottish law and addressing food insecurity and holding the government to council. Thanks, Pete.

14:37

Hi, thanks, Lucy. And I just got a couple of slides. I'm going to share my screen with those and those. That's okay, so, and I do need to do that thing about, can people actually see these slides?

**Lucy Miller** 14:54

We can see them. No. Good,

14:56

good. Okay, so I. Yeah, okay, I just so it was helpful, because not everybody is completely up to speed on the right to food. And I know there's big audience here, and some of you'll know all this already, but just might be helpful to just give that context before I say where we're at in terms of Right to Food in Scotland. So it goes back a long way. It's part of icesca in 1966 and it was amplified and elaborated in general comment number 12 in 1999 so it's got a long international history, and it's important to say that countries around the world have implemented the right food and and put in concrete measures to to progressively realize the right food. So it's it's not a new thing. In the human rights proposals, build proposals, it's proposed to the right food supposed to be covered both by the icesca and by the new right to healthy, sustainable, healthy, the right to healthy environment. And Shivani might want to say something about that, which comes in about that. So we were very pleased in the draft bill, or whatever we call it, the plan, that it was seen as having both rooted in icesca and the right to healthy environments. The right to food was given quite a lot of prominence, which we liked. But just saying, what is the right to food? And the general comment, it's really important to stress that this is not about the right to go to a food bank, right? This is about a different sort of food system, where everybody can get food that's actually meets their directory needs, that's free for absurd substances, and that's culturally acceptable. It also points to food being sustainable and doesn't interfere with the enjoyment of the human rights, such as, you know, these working conditions for the people who produce our food so it's a very broad look at, how do we, how do we underpin, what are the principles that underpin food system that we want in Scotland so and why we need the right to food in Scotland is, is, again, it's viscerally important. The starting point is that our healthy life expectancy as a population is falling. You know, it's it increased, and then the last five years, it's been falling. It's now below the rest of the UK. And for a man growing up born today in deprived area of Scotland, it's under 45 years of healthy life expectancy and food's a significant part of that. We've now got the gap of 25 years, opening up the least deprived areas of Scotland where you can expect to have healthy life expecting of 70 years. So it's a massive population, wide different in life expectancy and poor diet for the last 10 years has been the biggest contributor to that poor health in Scotland, bigger than tobacco, bigger than smoking. So it's just, you know, the way that we organize the food system to nourish people is leading is the biggest contribution to that all life expectancy. And we've also got one in 10 households, roughly in Scotland, every year that is food insecure, or has been in food insecure within the last year. Within that population, there are key groups that are especially at risk of having their rights food violated. People know, of course, public funds obviously don't have enough money to buy decent food, but people in care often are having to live on food which is produced on a very low budget, over which they have very little control. Or say, shift workers suffer major health impacts because they can't access decent food on their shifts, particularly night workers, but but delivery drivers, policemen, lots of people who actually are out and about all day actually really struggle to access healthy, affordable food. So there's different people who are particularly at risk of that and the food systems also may contribute to climate change and to nature loss. The most significant contribution to nature loss globally and within Scotland, it's 25 to 30% of our greenhouse gas emissions. And what that comes down to is the state in Scotland is failing in its duty to ensure that people are nourished sustainably, and that is a duty of the state, and that's what the right food does. Is it says this is the duty of the state to do this. Okay, let's go forward.

19:19

Okay, so how does the right food help? Primarily as without human rights, it establishes the government as a duty bearer, and citizens individually and collected as rights bearers. And that's crucial. It moves the emphasis nutrition moves from being a private challenge where we educate people. We we tell people to eat healthy food. We tell people to do this. We tell people to do that regards an educational issue that people have to solve on their own or for their household to being a public goal. It's something for all of us, by all of us, and the state's duty is to organize the food system in a way which realizes, protect, which respects, protects, and progressively realizes the right to food. I. It provides a mechanism for monitoring accountability, which is a key thing about human rights incorporation that you then set up the mechanisms to is that right being fulfilled. And it also means, as Lucy said right at the beginning, having that legal underpinning means that food policy has to ensure there's no regression on the right food. You know whether that's planning policy, social security policy, health policy, agriculture policy, Environment Policy, climate change policy, that it shows no regression on the right food, and you've got opportunity for legal challenges. So where we are now is the Scottish food Coalition, which brings together 40 or 50 organizations across Scotland, including trade unions and faith groups, environmental groups, health groups, farmers, the works, we campaigned for the right to food since 2016 and it was one of our core five asks the 2022 Good Food Nation act. But what happened in that parliamentary conversation about amendments the bill is we had a very, very clear and repeated reassurance from Scottish Government that the government is committed to the right food and enshrining it to law, and said they would incorporate it as part of human rights bill during the session of parliament. And it makes complete sense to incorporate the right to food as part of incorporating the wider treaty, because you set up mechanisms for monitoring, accountability and implementation access to justice. So we thought, okay, it's a fair cop, you know, we'll go along with that. But because this human rights bill has now fallen or is not being implemented, the Good Food Nation act that we have has regard throughout food but it doesn't incorporate the Scots law, and it doesn't provide any of the legal mechanisms that we could be using to make sure that food policy delivers for the people of Scotland. Okay, I hope that's enough for me, and I'll hand back to Lucy. Thank you.

**Lucy Miller** 22:00

Thanks, Pete, that really gives us an overview of a specific area which is also failed by this delay. And on that, I'm going to pass now to Dr shivali Fifield, who's the chief officer at the environmental rights center for Scotland. Shivali is going to address the Scottish Government's failure to meet its environmental law commitments, as per the our house convention. And she'll then explain the urgency of incorporating the right to a healthy environment for achieving climate justice, and discuss how civil society can respond to these delays. Thanks, shivali,

22:34

thanks Lucy and Pete. And thank you, Pete, for a really good introduction on the right to healthy environment as well, because I'll be echoing a lot of what Pete has said environment. Rights Center for Scotland, or ERCs, for short, our vision is of a Scotland where every person's right to a healthy environment is respected, protected and fulfilled. And since we were established in 2020 we've been working across civil society and government to advance the human right to a healthy environment, because we believe it's fundamental to addressing the climate and nature emergencies and the interrelated challenges social, environmental and climate justice, both for Scotland and abroad, in terms of our international responsibilities. So let me start by explaining why we need the right to a healthy environment enshrined in law, even though we have a huge body of environmental law, which has devolved to Scotland. So environmental laws are made to protect the environment, and these include laws related to land use planning, climate change, pollution control, conservation of biodiversity and environmental health. And we have environmental regulators such as SEPA or environmental standards Scotland who should enforce these laws, but when they do not, we need access to a court of law to hold public bodies to account, as this is the ultimate guarantee to the rule of law, but our legal system is incredibly complex, intimidating and unaffordable now our procedural rights To access to information, public participation in decision making and access to justice in environmental matters is protected by the international treaty called the artist convention, but Scotland's in breach of the acts to justice requirements, because going to court is their quote prohibitively expensive. Now at ELCs, we've got a free legal advice service, and we supported people across Scotland to tackle environmental degradation. And since the launch of our advice service, we've now received over 325 inquiries, many of which highlight how regulators are failing communities across Scotland by ignoring unlawful actions and inclusive and increasing the ongoing pollution of our air, land and water, and that is why we need a legal right to a healthy environment as part of a new Scottish human rights bill. So in july 2022 the UN General Assembly adopted a landmark resolution. This was so exciting. Thing, it recognized the human right to a clean, healthy and sustainable environment, and that environmental damage has negative implications for the effective enjoyment of all human rights for present and future generations. 164 out of 193 UN member states have now recognized this right, and the UN sees this as a critical tool for holding public bodies and big polluters to account in order to protect and restore the natural world. So in 2021 we applaud the Scottish Government's commitment to incorporate the right to a healthy environment in the human rights bill with both substantive and procedural elements. We'd hope that this would meet our procedural rights and that they would be strengthened to ensure full compliance with the ice convention. And this would mean that we had to get reforms to court expenses and expand Legal Aid. Now, the substantive part would recognize the six interdependent features of the right to clean air a safe climate, access to safe water and adequate sanitation, as Pete's already described, healthy and sustainably produced food. So this would reinforce all the concerns and strengthen the right to food, non toxic environments in which to live, work, study and play, and finally, healthy biodiversity and ecosystems. So for the first time, we would have our substantive right to a healthy environment with those six features protected in law. Having them interrelated in that way meant that Scotland could potentially reprioritize policy and budgetary choices to tackle both environmental and health inequalities as Pete's already described, we wanted to connect the dots between a healthy environment and healthy lives in Scotland, because what the right to a healthy environment does is it fundamentally stresses that CO dependence of people and the environment in a social, environmental and climate justice framework, and what I mean by this is a fair distribution of burdens and benefits and the right to participate in decision making by those who are most affected now, children, young people get this. We have the children's rights detectives investigating insisting on their environmental rights. And you can read Sophia and Oscar's blog and why children, young people are so passionate about this because they really see it as the way to turn the tide and the climate and nature emergencies. And what I'll do after this is I'll put some of those links in the chat for you all. But what difference would this really make? I hear you ask. Well, the former UN Special Rapporteur, Professor David Boyd, has now collated international research which evidences how the recognition of the right to a healthy environment has come has contributed to better human rights outcomes towards the right to life, health, food and water, because what it does is it encourages stronger environmental laws and policies and improved implementation and enforcement. So for example, this has led to cleaner air and use gas has emissions in countries as far afield as Costa Rica, France, Portugal and Slovenia, and states have also started using the right to shield themselves from industry lawsuits. So for example, Kenya, Uganda, Mexico have used the right to push through regulations on plastic bags. Nepal has used it to fight the cement industry, and Peru has used it to challenge and fight the importation of high polluting vehicles. So so much potential and so much potential that we've currently lost, but we will continue to fight to have it part of Scots law. So what's next? Well, I'm sorry it's a mark of cowardice that there's been no progress towards increasing acts to justice, to hold public bodies and polluters to account, and there's no other way of talking about this, as both Lucy and Neil have already alluded to, the ARS convention's governing bodies had given the UK and Scotland until the first of October, next Tuesday, to ensure that access to justice on the environment was affordable for everyone, but the government has failed to meet its recommendations, and so we're holding a rally outside the Court of Session 1230 to 130 next Tuesday to show our anger at the lack of progress and a call for action to make access to justice affordable, accessible, timely and effective. So if you can, please come and join us, and I'll put those details in the chat as well.

**Lucy Miller** 29:35

Thank you. Thanks so much for that. Shivali and we will also, in our follow up email, give the details of that rally. If anyone is interested in going, I'm now going to hand over to Julia Harris, Director of together Scotland, which is a Scottish Alliance for Children's Rights. Jules is going to reflect on the lessons learned from the early stages of the UNC. CRC, incorporation process and discuss the challenges in drafting and implementing the UN CRC, highlighting why further incorporation operates is crucial at this stage. Thanks, Jules,

30:14

thank you, Lucy. And hopefully everybody can see my slides. Okay, that's all right. Yeah. Cool. Excellent. So yeah, thank you, Lucy, and thanks shivali for really stressing the importance of the right to a healthy environment to children and young people. I think the work of our human rights detectives really evidences how important the human rights bill is for children and young people. And with a particular reference to the right to a healthy environment, I'm keen to reflect in my presentation about the lessons learned from UN CRC incorporation, some of the challenges that we encountered, and why we do need to see the human rights bill for Scotland introduced, including the right to a healthy environment. In terms of the lessons learned, I think I've got four key lessons that is really worth US reflecting on at this stage, because I know we're all so desperately disappointed to see the program for government, to see this rollback of the commitment to a human rights bill within this parliamentary term, to See all of the work that we have done being stalled at this stage when we know the protection of rights is just so important for Scotland, it's a complete roller coaster campaigning for incorporation, and we have been on that roller coaster for the UN CRC Act, which Now thankfully came into force on the 16th of July of this year. I was keen to kind of show the roller coaster so that we can reflect on quite how long it does take to successfully campaign and to get the program for government commitments that you really want. And I'd say the rollercoaster for UNCRC incorporation really began way back in 2010 2011 when Scottish government proposed introducing a rights of children and young people bill that would indirectly incorporate the UN CRC. So this is over 10 years ago, nearly 15 years ago, and we were so excited at that stage of seeing the possibility of the UN CRC being incorporated into Scots law. But it was scrapped, and it was replaced with proposals for the children and young people Scotland Act, which is where there was a requirement there really for national government to think about children's rights in everything that they did. So think about not actually do just think about children's rights. So it was a huge step back for us in comparison to the previous proposal of a rights of children and young people bill. But we had to take these knocks and carry on campaigning. We've had all sorts of program for government commitments along the years, some of which have been really positive and some of which have been highly disappointed. Disappointing. We've had commitments to audits. We've had commitments to incorporating the principles of the UN CRC into Scots law, the principles rather than the UNCRC itself. But we've ridden this roller coaster with children and young people at the heart of everything that we do to get to this point where actually the UN CRC act is now binding in Scots law. Obviously, a key part of this roller coaster was after the bill was passed in March 2021, the original bill, it was challenged by the UK Government, successfully challenged by the UK government, which has meant that the bill that, sorry, that is now in place is actually far less strong than what we'd originally campaigned for. So, yeah, it has been a roller coaster. And I know that the human rights bill campaign has been a roller coaster too. The UK supreme court judgment made it even more complicated to incorporate human rights into Scots law. So where the original UN CRC bill that was Act that was passed in 2021 covered all areas that devolved to Scotland, the supreme court judgment meant that's no longer possible. The supreme court judgment meant it could only cover those acts of the Scottish could only cover sorry acts of the Scottish Parliament. It couldn't include those acts of the UK Parliament, even if they related to devolved areas. So this suddenly meant that all sorts of areas around education and social work wouldn't be covered within the scope of the UN CRC act for Scotland. So it's significantly weaker than the original UN CRC bill, and it was certainly very disappointing to children and young people to see that development. Yes, we know that these complications carry on into the human rights bill for Scotland, and have even been cited in the program for government in the minister's correspondence, as one of the reasons why the human rights bill has been delayed. But that doesn't mean the progress can't be made, and I think one of the biggest lessons learned from the campaign for UN CRC incorporation is that actually an awful lot can be achieved before a law is even put in place. Obviously, it's essential that the ultimate aim of this process is that rights need to be binding in law. But there are very many mechanisms that can be put in place to make sure that actually rights are protected from the outset, and that government's thinking about rights in every decision that's been made. So in the children's scheme for the UN CRC Act, there are a number of measures that have been introduced to try to make sure that children's rights are at the center of decision making. And most of these measures were actually in place prior to the UNCRC act coming into force. So for example, things like child rights impact assessments, they were beginning to be done as a matter of routine, even before it was a statutory requirement for these to be put in place. And we had an action plan on children's rights, which set out what government's doing to raise awareness and understanding of children's rights. We had support for public bodies, through the improvement service, to embed a human rights approach and the children's rights approach in everything that they do. We had a range of support for all duty bearers on how they can involve children and young people in their work. I think that even though the program for government means announcement, means that the human rights bill won't take place until the next parliament, that doesn't mean that we should stop putting pressure on the Scottish Government to actually introduce a lot of these measures to make sure that we're ready for a human rights bill when it does come into effect, we need to be looking at human rights impact assessments. We need to be looking at how we make sure lived experience is at the heart of everything that we do. We need to be looking at human rights budgeting, and we need to be looking at how people make complaints if they don't feel their rights are being respected. So Lesson Four is that much more needs to be done in terms of the law. Really. Implementation Measures aren't enough on their own. We need to see a human rights bill for Scotland. I think the first step is that we need to resolve the complication that arose because of the because of the UK supreme court judgment. So we need to see the Scottish Government and the UK Government working really collaboratively together, constructively together, to make sure that the Scottish Parliament can protect human rights across all areas of devolution. And an amendment to the Scotland Act would achieve that, and is possible. We obviously need to see a human rights bill for Scotland. The reason we've got spider there. As children and young people have talked about the patchwork of protections of human rights in Scotland, and they see the human rights bill for Scotland as being a really important way of mending some of the holes in the web and making sure that we've got a strong layer of protection across all areas of everybody's lives. And we do need, still need to see some work on the UNCRC incorporation act to make sure that as much as possible is brought into scope of the act. My final lesson is, it is a roller coaster, but it's absolutely worth it. So many of the children and young people that I've been working with throughout this campaign for UNCRC incorporation are now adults. You can see from when we were celebrating on the balcony of the Scottish Parliament the UN CRC act finally being passed unanimously in December. It looks like it's a balcony of quite old people, but that's because we've been working on it for so long that many people have grown up. But we have the act in power now. We have children's rights being talked about at all levels of government. We have local authorities grappling with how they embed children's rights into budgeting. We have ministers looking at what they can do to tackle poverty, recognizing that children living in poverty are those whose rights are most at risk when it's not a magic bullet. It's not something that happens overnight. It's a complete roller coaster to get to this point, and even once you've got an act in place, it doesn't mean that everybody's rights are respected instantly, but it is a roller coaster that's worth riding, and it is worth it, and I think seeing so many people interested in applying this pressure to make sure that the human rights bill is taken forward, shows that we've got the community that we need in Scotland to really make sure that we have full protection of everybody's rights when we need it.

39:50

Thank you.

**Lucy Miller** 39:55

Thanks so much. Jules, I think it's really important to. I know that our roller coaster will be worth it, and to have seen that timeline from the children's rights perspective, in order to give us that bit of hope to keep going, I'm just going now to introduce Dr Pauline Nolan, who is the head of policy and engagement from inclusion Scotland. Pauline is going to focus on the Scottish Government's promise to engage further with disabled persons organizations, pointing out gaps in the program from a disability rights perspective, and explain what DPOs need from the government to ensure that we those promises and the human rights bill lead to meaningful change. Thanks Pauline,

40:32

thanks Lucy, and thanks to the Consortium for inviting inclusion Scotland to speak today, and just to say quickly that inclusion. Scotland is a national disabled people's organization. It's a network of disabled people's organizations, disabled individuals and their supporters, and we work to achieve positive changes to policy and practice so that disabled people are fully included throughout all Scottish society as equal citizens. And we take a human rights inequalities approach to doing that. And so in terms of Scottish Government's promise of further engagement with disabled people's organizations, some of our organizations have been working tirelessly with Scottish government since the beginning of 2023 on an immediate priorities plan after a year, the word immediate was dropped. Now we have the Scottish Government's disability equality plan. There's been sustained and intensive work on this over the last two years, including engaging with our disabled members to bring together details of the barriers they face, alongside our ask for disability competence across all policies and departments, which was covered by the last program for government that humza Yousaf brought out. But recently, slightly before this program for government was announced, a meeting with the First Minister confirms that the plan we'd been working on would not be achieved, and a very much diluted plan with very little of any substance, works for work towards disability equality was proposed. We were deeply disappointed, and here increasingly the concerns of disabled people as their barriers are compounded, the program for government contains eight references to disabled people, including the upcoming disability quality plan and also including a cup to the first year of funding for reopening of the Independent Living fund. But also included within these eight are activities that are continuing on from last year, such as the learning disability and neurodiversity bill and the amendments to the adults within capacity Scotland Act 2000 which the Scotland Scottish government claim will bring this on to line with developing thinking and international standards on human rights. What we need from Scottish Government is rights, not charity, because the charity model has been so dominant within our society, and nothing about us without us. So the UN CRPD, or the disability convention, has this Nothing about us without us as its tagline, and it was written by disabled people. It was the fastest approved convention, the first legally, legally binding instrument, international instrument to set minimum standards for the rights of disabled people. It sets how, how state parties can protect these rights, and it includes rights to choice, control, dignity and respect, which are in Article 19, but could apply to other rights too, and it was ratified by the UK in 2009 incorporation would give us the rights we have and give a clear steer towards progression, progressive realization to duty holders. But there's been too many broken promises. This seems like a once in a lifetime opportunity to progressively realize disabled people's rights and to raise a culture of this throughout all Scottish society. The Equality Act 2010 and its public sector equality duty in Scotland does not do what cooperation of human rights could do. United Nations Special Rapporteur said in 2017 that human rights breaches against disabled people were grave and systemic. We're being progressively harmed, and poverty for disabled people is deepening while services are being cut, services such as social care, support, accessible transport and housing, social security, health and mental health, care and treatment, civic participation and then lack of sustainable action and. And the rise of cost of living on top of years of our story and when we know that many disabled people have additional costs associated with managing their impairments, the consultation on a human rights bill was already proposing to dilute disabled people's rights by only recognizing them within the context of the International Covenant on Civil, economic and social rights, arkesca, incorporation of the disability convention would give us dignity, albeit without needing to be defined. Recognition of disabled people's organizations, which is set out in the UN Committee on disability rights general comment, seven, protection of rights, a robust complaints and redress mechanism, monitoring and clear duties for duty bearers in a word, justice. Thanks again, and thanks for listening.

**Lucy Miller** 45:59

Thanks so much Colleen, we're now moving to Rob gowins, who is the Policy and Public Affairs Manager for the Health and Social Care Alliance Scotland. Rob's going to discuss what the program for government means for the right to health and access to healthcare services Scotland, highlighting what is missing from the government's commitments to health and social care and emphasizing the need for urgent action to incorporate the right to health into our law.

46:24

Thanks, Lucy. Yes, for those who haven't met, my name's Rob gowns and policy Public Affairs Manager at the Alliance. So to sort of cover some of our initial reaction to the program for government, both the human rights bill and other things that are lying there. Much of it is bad. Unfortunately, there were a few Silver Linings that might want to sort of talk about, as well as some things that might come as a consequence of the dropping of the human rights bill. So it's like the other speakers, and I suspect everyone in this room the Alliance expressed our incredible disappointment by the failure to include the human rights bill in the legislative program. We bored that the Scottish Government was at risk of breaking its promise to the people of Scotland, and called it to reconsider as a matter of urgency, and we're looking forward to working with the consortium and the civil society organizations on next steps if, as is likely, they stick to their plans and don't introduce the bill. But that wasn't the only disappointment in the program for government. We're also concerned by the complete absence of any reference to secure sustainable funding for third sector. This is despite the Scottish Government previously committing to fair funding principles. We're concerned that the lack of the lack of delivery and the lack of sustainable funding for the third sector will have negative impacts for population health, for fair work, the wellbeing economy and human rights. And in some more bad news, similar to the human rights bill, the program for government also failed to include the promised learning disabilities or similar neurodivergence bill that Pauline has alluded to, like the human rights bill, the Scottish Government's firm this won't happen in this parliamentary term. This bill had the potential to strengthen and protect the human rights group whose rights most likely to be at risk and other disappointment, there might be some other knock on impacts that happen as a result of the human rights bill being dropped. To consider so the alliance has for a long time supported proposals for an older people's Commissioner. We've also supported roses for a disability commissioner and a learning disabilities, autism and neurodiversity Commissioner. But we recognize the importance of taking a strategic approach, given that the number of different proposals for commissioners, there are quite a I think, I think sort of six or seven, sort of other proposals that are out there from government and from MSPs. The human rights bill was a good opportunity to do this, sort of, potentially through, sort of strengthen the powers of SHRC, bringing a strategic approach to the commissioners. But because that's not happening, that leaves a bit of a void whether to sort of pursue individual Commissioners, whether a strategic approach is going to be taken. And it's sort of the thing that sort of caused something to be sort of a thread in the sweater that's being unpicked. And I think similarly, there is a number of other areas that we working on as part of coalitions, as part of the human rights bill, Pete's already spoken about the right to food, which we've been working on as member of the Scottish food coalition, and also been working with the right to rehab coalition. And. On for incorporation of the right to rehabilitation. Dropping of the bills meant, meant a disappointing Change of plans on all those fronts as well. I don't like to be entirely doom and gloom, so there's potentially some some silver lines of some areas to work on. Before the program for government, the Alliance had asked the Scottish Government to include the mainstreaming strategy and the program for government, I'm pleased to see a commitment to accelerate action, to mainstream human rights and equality in all government and public sector work, and to a prevention based approach to public service reform. We have been worried that things have gone a bit quiet on the mainstreaming strategy. So this potential, potentially presents an opportunity to advance human rights and equality through that route. And we're also pleased to see the Scotland government make a renewed commitment to the actions in snap two, which is Scotland's national action plan for human rights. The Alliance is a member of the snap leadership panel, and we've been very concerned at the apparent lack of commitment to the plan from the Scottish Government. Um, however, I've noticed it started to feature in public statements again, which it wasn't for a while. And we are seeing some signs, although it's a long road ahead to making progress, um, towards achieving some of them. Um, so as I mentioned, as the Alliance. We're still in the process of revising sort of plans and considering what might be best to do following the shelving of the human rights bill. However, there might be some opportunities, and we're looking forward to working across civil society to make most of them.

**Lucy Miller** 51:39

Thanks so much, Rob. And I realize we are running out of time, so we probably will go on after one but just by a couple of minutes, if you do bear with us, that would be brilliant. Now going to pass to Kimberly Wong, who is the Public Affairs and Policy Officer for rare recent third recommendations and the path forward for racial equality is what Kimberly is going to be focusing on and providing an overview of recent recommendations from the Committee on the Elimination of Racial Discrimination, outlining the steps that Scotland needs to take to address systemic racial discrimination, and discussing the role that civil society must play here. So a bit of a stray of my program for government, but a really important area for human rights. Thanks, Kimberly.

52:21

Great. Thanks. Lizzy, so my name is Kimberly Wong, and I'm the Public Affairs and Policy Officer at the Coalition for racial equality and rights. So I was one of only two Scottish NGOs who attended the UK cert scrutiny in Geneva last month. So SART stands for the United Nations Convention for the Elimination of Racial Discrimination, which is a very well. So who just called cert? So it's a human registry that protects and enforces the right against racial discrimination, as is clear in the name. And the UK is signatory to cert, and as a signatory, the UK has to report to the cert committee about their actions to progress race equality. So the Scottish Government also provide an update in this report. So after receiving evidence from the government, national human rights institutions and from NGOs, the committee can publish a set of concluding observations, which are essentially recommendations for the UK to improve on anti racist actions. So from our standpoint, it can be quite a complicated process. So for example, in 2011 recommendations were made to the UK Government, but they weren't relevant to scope. So it comes down a lot to the committee's understanding of devolution and also specific writing within the recommendations, our lobbying ensured that the committee were made aware of these issues, and it was reflected in the release of it last month. So there was a wide range of recommendations, and I would suggest looking at it in detail if you're interested. But the committee did highlight positive aspects of Scotland, such as the UNC received that we've had to have spoken about the hate crime and Public Order Act and also the child poverty act. So amongst these recommendations were also improving data collection, adopting a new racial policy action plan in Scotland and creating a cross government strategy to address poverty. So because we're a bit short on time, I'm only going to focus on the action plan and also data collection. But child poverty is a massive concern for crdr. The fact that we've been a whole year about a racial policy action plan in Scotland is really troubling. This was also the case actually back in the previous certainly in 2016 where there was a gap in an action plan. So we need immediate action to address this final consultation with stakeholders as well, without structure or concrete targets, the recommendations and policies might not go anywhere, and it definitely won't address any form of systemic racial discrimination. So I think this is the most crucial role for civil society organizations. Currently, data was also another crucial recommendation that was made. So even though there were constant improvements being made to data collection, there's some massive gaps and inconsistencies, especially in ethnicity data across employment, health. Housing poverty, and one of the examples we constantly bring up is the fact that child poverty currently is segregated into black and minority ethnic families. Instead, the minority ethnic priority group, which we often talk about, includes white minorities. And this can screw the information that we have in poverty and understanding racial disparities at all. So we're still waiting for a formal response to all of these recommendations that were made by SARS. And I think that the role of civil society now is to make sure that Scottish government understands that these are relevant to them. And that's not enough that is being done, especially given the delay of the human rights bill. So it might be another three or four years before the committee will scrutinize the actions of government again, and given its track records, and any action to address the recommendations are going to be slow. There's still a lot of work to be done, and I hope that the cert recommendations are going to be a way for holding Scottish government accountable for the lack of action. So thank you, and I will pass back to Lucina.

**Lucy Miller** 55:59

Thanks so much for that. Kimberly so succinct. Last, but certainly not least, we have Professor Nicole Busby from the University of Glasgow. Professor Busby is going to analyze the program for government's priority four, which focuses on ensuring high quality and sustainable public services, exploring the implications of the Scottish Government's decision not to incorporate international treaties into Scots law in questioning whether this signals a retreat from their commitment to human rights legislation, and what that might mean for future progress. So I think this is a great speaker to end on.

56:32

Thanks Lucy, thanks everyone. What a great event this has been. I'm going to keep this as short as I can, because I know we're almost out of time. So I'm going to start from the understanding, and I think it's clear from all the previous speakers, and I know many of you on the call, who we engage with regularly, that we need consolidated, comprehensive and holistic approach to rights and access to justice for everyone in Scotland, and we don't have that at present. So we start from that point. That's why we need human rights bill. That's why we need to incorporate international human rights into Scots law. So starting from that position, then is the government closing the door on human rights legislation, I suppose is the big question that I was given to examine priority four of the program for government is ensuring high quality and sustainable public services. The rights framework that I spoke about really, as well as being to do with enforceable rights, just issue what we would what lawyers call justiciable rights, ie, enforceable through the courts, is also to do with the delivery of public services through a human rights based approach. So the everyday decisions that are made and the everyday treatment that people receive in relation to public service provision and priority for the program for government does identify this as being a priority for the Scottish Government, and that they rightly in the program for government. Investing in public service is a vital investment in our future, health, equality and prosperity. I think we'd all agree with that, and I'm sure we've heard from all the speakers today that that would bring something to the table, a human rights based approach would undoubtedly help in achieving better public service provision. So to have that as their number four priority, or one of their four main priorities, and then not advance the legislation is really disappointing, and it might be quite difficult to make that progress that the Scottish government says it wants to be in relation to ensuring high quality and sustainable public services without the underpinning framework of that bill that we were all so much looking forward to, there was a glimmer of hope, if you look at the deeper content of the program for government in the reference to the consult on and publish what they what they say is going to be a framework to embed human rights across the Scottish Government a wider public sector. Now I pick up on that because this looks as if it's the beginning of a process of imposing some duties on the state in respects of human rights and equality. More broadly, perhaps, they link this in the program for government to an action plan and toolkit and practical steps to progress this ambition, which will be complemented by actions to enhance the effectiveness of the public sector equality duty. Now that could be, could be something that we might want to work with. Certainly I'll be looking at that. Have been looking at that area for some time. I think duties are the key to a lot of this, because it is about that everyday delivery of public services that I spoke about, and duties are really important there, and we can do that. Juliet spoke. Out. You know, sometimes you can do a lot without strict compliance about the legislative framework, which hopefully follows, and I think we do want to make sure that it does follow. So this might help us to prepare for formal compliance. Having those duties in place could certainly be a good starting point, and that's an improved public sector quality duty, because we know at the moment that isn't working effectively. And I would also align that with the fairer Scotland duty, which is very important duty as well, already implemented in Scotland. So I think those points worth making. What are the implications of not incorporating international treaties? Well, I think it's going to be difficult to meet the government's own goals. Difficult for them to meet their own goals if they don't incorporate human rights. I'll briefly, very briefly, just highlight the example of child poverty. Their priority number one, child poverty, when children live in poverty in Scotland, so do their families. So it's not an isolated you can't just pick that out from the whole range of issues that we've heard about today as one thing that we need to focus on, that we need to do in terms of goal setting. I think it's wrong to do that. It's unlikely that the Scottish Government will achieve this goal if it doesn't incorporate human rights everyone in the way that we were hoping that it would do. Over a million people live in poverty in Scotland, many of them in deep, intergenerational poverty, and that is racialized, gendered, and also lots of the policies and practices are ableist, so that people with disabilities are excluded from them, and they're not furthering the rights or the improvements in the lives of people with disabilities. So child poverty is a great target to have, but it has to be thought about in a holistic way that links it to other life circumstances, life opportunities. So I think if we don't incorporate in the long term, very unlikely that the Scottish Government can meet its own goals, does this Fiddler retreat from the government's commitment to human rights legislation, the lack of a bill? Yes, it does. It certainly does. We've heard that from previous speakers. What does it mean for future progress? I think it what we need to do in Scotland is we need to move it on from a government to a cross party concern. So any engagement we can have with other political parties alongside the SNP, perhaps continuing engagement with the SNP will be a good thing. So we need to think about how we do that. We need to think about how we strategize around that. It's very incongruous that we heard the cabinet secretary at the recent Human Rights Conference say that had the Conservatives stayed in power at Westminster, she would have brought forward a bill. Just doesn't make any sense to me. I think it's very cynical, actually, and it shows you that this is deeply political, party, political, and I think that's not good enough. We want something that takes it lives, it beyond that, that particular kind of strata. What can civil society do? And I'll be really brief here, keep up the pressure for a bill. Look at the legislative agenda more broadly and ask a human rights based approaches in other pieces of legislation that are already on the table. So it's not just about that overarching bill, but what can we do in terms of other pieces of legislation? I think we need to look at that, humanize the issues and the agenda. Keep providing the evidence you're doing a brilliant job on that. Please keep doing that. And I would just say this is a personal reflection, and I'll finish here. Keep doing the great work. One really good outcome from the last few years has been the upsurge in positive action by the sector in this space, led by the Children's sector and others. Civil society is in a really good place in terms of awareness, skills, knowledge, expertise on human rights. And this has all happened really in the last few years. And I think it's really amazing to see that we need to keep this going, because we are still hopeful. We must be hopeful that a bill will appear, maybe not in this program of government, for government, but certainly in the future. And it's important not to lose that expertise. I know it's difficult when you have competing demands, but I will just end on saying that human rights progress is always a process, not an event, so we need to keep working together on that. Thanks.

**Lucy Miller** 1:04:30

Thank you so much, Nicole, and in the interest of not taking up too much of anyone else's time, I just want to give a huge thank you to all of our speakers on behalf of the consortium, and please keep up to date with all consortium work by signing up to our newsletter. Thank you and have a nice lunch.

1:04:52

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