

Human Rights Consortium Scotland

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“An International Perspective’s Call to Action for Scotland”

Professor Alan Miller

I would like to pay tribute to HRCS, to Charlie and the team, carrying on the work of Mhairi Snowden and the previous team...congratulate you on Our Rights, Your Move...heartwarming to see the Eleanor Roosevelt quote...I well remember it was the very first thing we published back in 2008 when I had the privilege of being the inaugural SHRC Chair! It wears well!

I would also like to thank Angela and all at SHRC for carrying forward the efforts of previous Chairs and staff!

However, at this point I would also like to pay tribute to Lord Jim Wallace, the Lib Dem former Deputy First Minister, who sadly passed away last Thursday. He was the best of us.

It is thanks to Jim that we are today talking about the SHRC. There is an extremely interesting back story but just let me say that he and I worked very closely together over twenty years ago now to establish the Commission.

We became firm friends and I have fond memories of visiting him at his home in Tankerness in Orkney.

So, we all thank and owe you, Jim. Rest in peace.

Let me now move on to my presentation...

I am hugely grateful to be asked to present an **International Perspective** at today's event.

I want, however, to not merely **describe** the international situation – we all know already how bad it is – but rather to open up discussion on **what we do** through presenting an **International Perspective's Call to Action and what this means for Scotland.**

So, very much what Eleanor Roosevelt called for!

At the outset then and very briefly, let's understand the **context of the times we are living through.**

Our international human rights system is facing unprecedented challenges whilst at the same time here in Scotland we are entering the most critical year to date in our human rights journey. Through the proposed Scottish Human Rights Bill, we are on the cusp of taking the biggest step forward yet and in so doing Scotland will be standing up and reaffirming and strengthening our international human rights system.

This Call to Action therefore seeks to address both the challenges of the international situation as well as the opportunity presented by the situation here in Scotland.

LET ME NOW VERY BRIEFLY OUTLINE WHAT IS THE INTERNATIONAL PERSPECTIVE'S CALL FOR ACTION AND WHAT THIS MEANS FOR SCOTLAND.

The peoples of the world and the UN are facing unprecedented challenges - and it has given a **Call to Action - for Everyone Everywhere to Stand Up for Human Rights.**

This is a call for us all to mobilise and overcome the challenges faced.

It identifies what we are to overcome, including...

the existential threat of climate change, ongoing conflicts, worsening inequality, discrimination, poverty and forced migration...

the rise of disinformation and populism, preying upon people's insecurities and disempowerment, and scapegoating "the other", for example, fuelling anti-immigrant sentiment...

the threat posed by the rapid and largely unregulated rise of AI...

and, of course, the acute funding crisis for the UN - particularly as many donor countries are now prioritising defence spending which is seriously impacting upon the very core functioning of the human rights system.

The Call is that strengthening the protection and promotion of human rights is the means to overcome these challenges but that just **saying** that is not enough.

This is borne out as we look around our world today and witness the alternative to international human rights law... where **the law of power is prevailing over the power of law.**

So, it is **action** which is needed, and which **is** being taken in real life...let me give you an example...recently I met with the Pacific Islands Students Fighting Climate Change and the World's Youth for Climate Justice.

Initiated in 2019 by 27 law students the campaign grew into a global movement supported by over 1700 organisations with the aim of securing an Advisory Opinion from the International Court

of Justice defining the human rights legal obligations of member states to combat climate change.

In an historic ruling last July, the Court delivered a landmark Advisory Opinion stating that states must protect the environment and future generations, holding them legally accountable under international human rights law.

This ruling is now strengthening global civil society climate advocacy as well as climate litigation.

This is an example of why the Call to Action to Stand Up for Human Rights is necessary and how it is being met.

WHAT DOES THIS INTERNATIONAL PERSPECTIVE'S CALL TO ACTION MEAN FOR SCOTLAND?

The most strategic, impactful and internationally welcomed action that can be taken by Scotland is to progress the proposed Scottish Human Rights Bill and make it law.

Why is this?

Well, at a UK level much of the discourse is frankly dispiriting and continues to revolve around the never-ending “Westminster bubble” debate and the consequent need to protect the Human Rights Act, passed almost thirty years ago now.

And, of course, whilst efforts to defend the Human Rights Act and the ECHR unfortunately continue to be necessary, we also need to learn from and act upon the experience of the past almost thirty years...

For example, the impact of austerity...the structural inequalities exposed by the disproportionate impact of Covid... the current

rise of far-right populism preying upon the economic and social insecurities of people...

as well as the increasing impact of climate change...

All of this has shown that people in their everyday lives need not only civil and political rights but also the internationally recognised economic, social, cultural and environmental rights.

This is the forward-looking trajectory of the proposed Scottish Human Rights Bill which, as we know, is to incorporate ICESCR, CRPD, CEDAW and CERD and provide the right to a healthy environment.

The movement to bring the proposed Bill into law has helped to get us on the front foot and make human rights relevant to the everyday needs of people and to protect and promote our values and cohesion of our society.

In short, the Bill provides **leadership** and, standing alongside the Human Rights Act, it will bring home the full range of internationally recognised human rights which belong equally to everyone.

To illustrate this, let me share a conversation I had recently with a UN colleague, part of whose responsibilities was monitoring human rights developments within the UK.

He had asked me what was going on in the UK as he was frustrated that he was having to spend increasing amounts of time focussing on the UK!

I did my best to explain the landscape, that there were essentially two human rights trajectories within the UK – a regressive one at a UK level and a more progressive one in Scotland, Wales and N

Ireland, including reference to the proposed Scottish Human Rights Bill.

Although his eyes did unsurprisingly glaze over at the intricacies and joys of our reserved/devolved competency debate in Scotland and although his first language was not English, he did capture the key issue in quite a humorous way when he concluded that...

“I think that you have in English a saying of seeing a glass half-full or half-empty. Well, the Human Rights Act is good in that it has half-filled your glass with its civil and political rights, and it seems that Scotland wants to fill its glass with the rest of internationally recognised human rights whereas Westminster seems to be always talking about emptying its glass!”

Of course, more formally than this conversation, the UN treaty bodies have consistently recommended that the UK incorporate its treaty obligations whilst the UK has equally consistently refused to do so!

In these times of assaults upon the international human rights system Scotland’s incorporation of these treaty obligations would therefore be symbolically very significant and warmly welcomed by the UN.

However, **we need to go further** than formal incorporation which is only a first step and recognise that **actual leadership** will be through Scotland developing **innovative and effective implementation of the human rights in the Bill.**

It is in this respect that the proposed Bill offers **real international leadership.**

I know this through my own work in helping to lead the development of the recently published UNDP HRBA Toolkit in which we include recommendations for UN country offices around the world based upon national experience and examples of good practice.

A key recommendation is for countries to take a “**whole of society approach**” towards more effective implementation of rights.

This approach goes beyond the dead hand of government control of treaty body and UPR recommendations. Instead, it opens up the process of implementation, monitoring and reporting to give key roles to the parliament, civil society and NHRIs. In this way it enables greater public participation and so brings the recommendations to life.

The proposed Bill includes measures which would apply this “whole of society” approach.

For example, what in the proposed Bill is currently called the **Human Rights Scheme** will enable the participation of civil society, including those people with relevant lived experience, and the NHRI to contribute to a process of the parliament regularly and publicly holding the government to account for effective implementation of the Bill and treaty body recommendations...

There would be **innovative public participation** in the process to determine the **minimum core obligations** attached to the rights - that is, the essentials needed to live a life of dignity.

The proposed remedy of a “**structural interdict**” would enable the courts to require public authorities to make those systemic

changes necessary for the effective implementation of the rights within the Bill... with this process enabling meaningful participation of those rights-holders affected and consultation with the NHRI.

Alongside the current preparations for the Bill there is also being developed a “**tracker tool**” for monitoring and reporting to the treaty bodies on the implementation of their recommendations.

When the tracker tool is fully developed it will enable the parliament, civil society and the NHRI to contribute along with the government in the report to the treaty bodies and so ensure transparency on what is and is not being done to implement the recommendations.

These examples and others will be very much welcomed and promoted by the UN as leading examples of good national practice.

In addition, as a supporter of SNAP 2 and as previously a driver of SNAP 1 when SHRC Chair, it is good to recognise that the implementation of the Bill will go a long way to help strategically and systemically achieve many of the SNAP 2 priorities.

Progressing the Scottish Human Rights Bill is therefore Scotland’s best response to the Call for Action.

SO, WHAT DO WE ALL NOW NEED TO DO TO GET THE BILL OVER THE LINE?

Let’s all **Refresh Momentum** for the introduction of the Bill to parliament as a post-election priority of the incoming government...

Let's all adopt this **whole of society approach** in which we all play our part... a **shared leadership** of the **government, parliament and civil society** as proposed by the Taskforce...and fulfil our **generational and international responsibilities** through making the Bill law.

Firstly, then, what is the part to be played by the **Scottish Government**?

If re-elected, the government should introduce the Bill as a priority post-election, demonstrate a vision and ambition of what kind of country we want to live in and display the courage of its convictions.

It should recognise that the Bill needs to be an essential part of its response to the current political climate of right-wing populism which is challenging our values and social cohesion.

They rest on the recognition of **human dignity** being the foundation of a better society and world.

It is this which underpins both international human rights law and the proposed Bill.

The Bill would anchor our values in our law.

It would guarantee in law the economic, social, cultural and environmental rights belonging equally to everyone – irrespective of religion, race, gender, socio-economic or other status – and provide the framework for a social cohesion within which relations among us all can be harmonised.

The government should then heed the message from Volker Turk, the UN High Commissioner for Human Rights, that...

“Human rights are the bonds of trust between people and their governments”.

Secondly, what is the part to be played by the **Scottish Parliament**?

As a guarantor of human rights and upholding our shared values it should hold to account a Scottish Government to introduce the Bill.

Being conscious of the contributions made by the different political parties at different stages of Scotland’s human rights journey – including, for example, the cross-party support for the UNCRC Incorporation Act - the Bill should be seen across the political spectrum as the next and biggest step forward and not as an *“SNP thing”*.

Thirdly, what is the part to be played by **civil society**?

We need to refresh our support for the Bill and seize this ***generational opportunity – and responsibility*** - to support what would be the biggest step forward yet in Scotland’s human rights journey.

Notwithstanding our understandable disappointment about the delay with the Bill and our frustration that the Bill cannot be stronger given the current constraints of devolution, let’s see this bigger picture, the prize on offer and all of us redouble our efforts and get behind the Bill to get it over the line and into law.

We need to recognise that perhaps in recent discourse on the Bill there has been a disproportionate emphasis on complexities and there is now a need to re-focus on how it will improve people’s lives, make us a better country and so contribute to a better world.

To be frank, this focus on the complexities and frustration, if of course understandable to some extent, will serve to sap and not strengthen the required political will of the government to introduce the Bill.

Nothing stands still, let's make the Bill achieve everything it can today and be prepared to go further when things change tomorrow.

And it is needed **today** to improve lives and anchor our values in law...

We can remind ourselves of the quote from Volker Turk, the UN High Commissioner for Human Rights, that...

“Human rights laws exist to defend values central to our society and to our world”.

Looking around the world, we have here in Scotland globally unrivalled civic space to be human rights advocates and this gives us an ***international responsibility***.

To return to Eleanor Roosevelt, this is where universal human rights begin.

So, today's Call for Action for civil society within this Scottish context is that we take an approach of **“constructive accountability”**.

This is a combination of continuing to **constructively** engage with the Scottish Government to re-energise it through our encouragement, advocacy and co-operation in preparation of the Bill and in return for this - should it be re-elected – to hold the government to **account** on its public commitment to then introduce the Bill to parliament.

Importantly, it also means to engage across the political parties to help create a favourable political environment in which the government can feel confident in introducing the Bill.

This would mean our calling on other political parties to state their support for the introduction of the Bill and for them to hold the government **accountable** to introduce it to parliament. This is to learn the lesson from the silence when the government failed to introduce the Bill in 2024.

All of this is within our grasp and so let's do it.

I'd therefore like to end as I began and commend the Consortium for stepping up with its publication of "Our Rights, Your Move", including its support for the Bill, and its ongoing work to carry out this approach of constructive accountability.

I urge us all – government, parliament and civil society - to do everything that **together** we **all** move the Bill forward.

IN CONCLUSION...

I would briefly like to share a couple of personal reflections...

Scotland is a small country and not even a member state of the UN...however doing what may seem small things in the global landscape can matter...

Briefly, let me share a couple of recent examples from my personal experience...

Firstly, I am currently supporting the UN Special Rapporteur on Human Rights and Climate Change to carry out her critically important mandate.

Due to the UN funding crisis, she is starved of adequate resources to carry out her mandate.

I approached the Scottish Government and urged them to take a lead and provide financial support to enable her to recruit research and communications staff as well as supplement her meagre UN travel budget.

The government did so and this was publicly announced and welcomed at COP 30. It was the first government to do this and hopefully others will follow this lead.

Another example is a process I have been helping to lead in Scotland as Chair of the National Collaborative on Drugs Deaths.

Based upon the participation and life experience of those people affected by substance use and adopting a human rights-based approach we developed a Charter of Rights for People Affected by Substance Use along with a human rights-based Toolkit. Its key rights are drawn from national and international human rights law.

The Charter has been broadly welcomed across the alcohol and drugs sector. The First Minister and the OHCHR attended its launch. It has been personally welcomed by Volker Turk, the UN High Commissioner for Human Rights, and is now being promoted globally as the first of its kind and a leading national example of a human rights-based approach towards drugs policy.

Having said that, it also needs to be underlined that its full potential will however only be fulfilled through the Scottish Human Rights Bill's incorporation of the right to the highest attainable standard of physical and mental health!

So, what we do in Scotland can matter!

Finally, whilst I have been talking about the problems faced internationally, we can also draw **inspiration** from international experience and struggles...

A few years I found myself, along with an Egyptian colleague, in Palestine to deliver a weeklong training programme to human rights defenders.

As we introduced ourselves and the proposed agenda, we were roundly denounced by one of the participants. He accused us that being a Brit and an Egyptian we were responsible for their plight, that the UN human rights system had betrayed them and was useless and that the proposed week was therefore a waste of their time.

He was a man just released from 5 years in Israeli detention where he had been tortured.

Nasser and I had literally been there 5 minutes. There was no question as to who rightly had the street credibility.

Nasser and I responded that we agreed about what he said about the role of our respective countries, about their betrayal by the UN human rights system but that we were independent and nevertheless wanted to explore ways in which we hoped we could at least exchange our experiences and try to find small ways forward.

This was all to no avail, until a young woman human rights defender stepped out to the front, literally took the microphone from out of my hand and said...

“Brothers and sisters, it is better to light a candle than curse the darkness, our sacrifices are all for nothing if we do not build a free Palestine based upon the Universal Declaration of Human Rights”.

This transformed the atmosphere and allowed a tough but productive, and personally inspirational, week in which some small ways forward were indeed found.

We owe them. In a Scottish context and in a sense our Bill is our candle...

Let's light our candle!

Thank you.