

**Evidence before the Equalities and Human Rights Committee  
of the Scottish Parliament**

**29 March 2018**

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Honourable members, thank you for inviting me to speak with you today. I apologise for not providing written testimony in advance of the hearing. Unfortunately, the invitation did not provide me sufficient time to produce this. But I am happy to provide these comments in written form after the meeting today.

I am particularly delighted to be speaking with you today because almost exactly six years ago, I and a group of my students at the University of Glasgow where I was teaching at the time, released a report entitled ‘Scottish Parliament Committees’ Perspective on Human Rights.’ This report was commissioned by the Scottish Parliament Cross Party Group on Human Rights with a view to examining how all Committees included human rights issues in their deliberations. While the report was limited in its timeframe, it concluded that ‘the evidence for the period [of study] reveals a widespread disregard of the normative and institutional framework for conceptualizing and analysing human rights issues.’ There was no evidence that this was deliberate for the most part; rather, ‘most Committees did not seize the opportunity to imbue human rights in their respective field of activities.’ It went on to say that ‘Although creating a Human Rights Rapporteur within all the committees or requesting all the committees to include human rights considerations in their annual report could go a long way in alleviating some of these problems, we do not take the view that this arrangement, by itself, can play an instrumental role in increasing the “profile of human rights in parliament”’. Instead, it called for moving human rights to what was then called the Equal Opportunities Committee and renaming the committee to reflect the new mandate. Although I am not assigning any influence whatsoever to that one small report six years ago, I am nonetheless gratified that this suggestion has indeed been

implemented. The creation of this Committee represents a substantial commitment to embedding human rights in the work of the Scottish Parliament and Scotland more broadly.

I am not a parliamentary or constitutional expert. Most of my work focuses on how international institutions and other actors address human rights issues, frequently examining the domestic/international interface, and so my comments for the most part will reflect this.

Others will reflect on the intricacies of committee action and the constitutional mandates of the Committee. I, instead, want to begin by reiterating the potentially transformative nature of the creation of this Committee and encourage you to use its potential to not only potentially scrutinize the work of other committees, or to routinize the consideration of human rights throughout Parliament, but also to use it as a platform to embed within broader Scottish society the positive values of human rights. I have lived in Scotland for more than 13 years. In that time, it has become clear to me that Scotland as a whole appears to have a somewhat different approach to the issue of human rights than other parts of the UK. The open and welcoming response to Syrian refugees, for examples, exemplifies this approach. The very positive words and actions on the part of the Scottish Government and Parliamentarians contribute to this. But this is obviously not uniform throughout society, and is subject to significant regression. We have seen this over a long period of time in Westminster, with proposals to withdraw from the UN Refugee Convention, the European Convention and Court of Human Rights, and to replace the Human Rights Act with something which is sure to provide less than current human rights protections. This committee should be an outspoken positive voice against any such reductions in human rights protections – both in Scotland and in the UK as a whole, since any changes in Westminster will inevitably have an effect in Scotland.

In this regard, I have a few specific recommendations:

First, with regard to future proposals from Westminster, the Committee must be vigilant in scrutinizing their effect on human rights protection in Scotland.

This includes the effects of withdrawing from the EU Charter of Fundamental Rights as part of the withdrawal from the EU itself. Most of these rights are contained in other documents which will continue to apply to the UK and Scotland, but any reduction in protections should be clarified and plans to mitigate such reductions formulated.

Second, there has been much discussion and some political commitments to directly incorporate international human rights law, such as the Covenant on Economic, Social, and Cultural Rights, into Scottish law. Direct incorporation to the extent possible would help to mitigate any attempts by Westminster to undermine protections in Scotland. The Committee should be proactive in investigating such possibilities.

Third, the Committee can play a significant role in the development and scrutiny of the Scottish Government's submission to the United Nations Universal Periodic Review of the UK. The most recent submission was robust and positive, but there is a role for continuing engagement in this process – including considering the outcome of the review from the UN Human Rights Council and how the Scottish Parliament might respond.

Fourth, more broadly, the Committee can play a role in following up findings, reports and recommendations from UN treaty bodies, and evaluating the implications for human rights practice and protection in Scotland. It could potentially also send reports and representatives to treaty bodies.

Fifth, the committee can proactively engage with international actors such as other parliaments and organisations to draw on best human rights practices globally to inform its work – and the work of other committees.

Sixth, the Committee can initiate inquiries into specific human rights issues, including those which might span the domestic/international divide, or which may relate directly to reserved powers, but which nonetheless may have direct consequence for Scotland. For example, the conflict in Syria, and the broader situation of refugees and migrants in the Mediterranean, has direct impact on Scotland given the open and generous response by Scotland to welcoming

Syrian refugees. More generally, the UK's response to situations like Syria is of direct concern to many citizens in Scotland who may not feel that their concerns are adequately represented in Westminster. The Committee could thus become another voice within broader discussions in the UK regarding how to address key international challenges.

Seventh, the Committee can welcome and support initiatives to directly protect individuals from human rights violations internationally. This might include making strong statements in support of welcoming refugees. And, it might mean engaging with initiatives like the Scottish Human Rights Defenders Fellowship, which is funded by the Scottish Government and which will involve, initially, human rights defenders coming to the University of Dundee for a period of respite, research, and interaction with human rights organisations. I am sure they would welcome the opportunity to speak with the Committee – and others in Parliament – about their concerns. And providing such a forum would be an important show of solidarity.

Finally, I appreciate the inclusion of academic voices in this discussion, and would encourage the committee to continue to draw upon the very significant resources at Scottish universities (and elsewhere) to support its work. I am currently spearheading an initiative to create the Scottish Centre for Human Rights, which would facilitate such interaction. But even in the absence of such a formal centre, there are many academics in Scotland willing and able to support the important work of the Committee.

In sum, I would encourage this committee to be proactive and mobilise public opinion in support of the broadest array of human rights – civil and political as well as economic, social, and cultural – and contribute to public discourse in Scotland – and beyond – on human rights issues. This may require thinking beyond narrow understandings of mandates which focus only on scrutinizing legislation to a more holistic understanding of positive support for human rights.

Thank you.