****

**Human Rights in**

 **Scotland’s Future**

**Insights Paper**

**Scottish Human Rights Commission**

**August 2014**

**CONTENTS**

About Us 3

Executive Summary 4

Scotland’s Human Rights Story 6

Our Recommendations 8

Appendix: Incorporating International Human Rights 17

**ABOUT US**

**The Scottish Human Rights Commission is an independent public body with a broad remit to protect and promote human rights for everyone in Scotland.**

The Commission works on a range of legal, policy and practical issues which affect people’s human rights in Scotland. In particular, we coordinate and support the delivery, with a wide range of partners, of Scotland’s National Action Plan for Human Rights, an ambitious roadmap towards a Scotland where everyone can live with human dignity.

The Commission also works as a bridge between human rights in Scotland and the international human rights system. We are accredited within the UN system as an “A Status” national human rights institution, which means we report directly to the UN on human rights issues that affect people’s lives in Scotland.

The Commission chairs the European Network of National Human Rights Institutions, one of four regional groups which bring together human rights bodies from around the world. The Commission is also vice-chair of the International Coordinating Committee of National Human Rights Institutions.

**EXECUTIVE SUMMARY**

**Human rights in Scotland are at a crucial junction. More than 65 years since the Universal Declaration of Human Rights was adopted, Scotland enjoys a broadly positive climate for human rights. Strong institutions are in place and some practical advances have been made when it comes to the reality of people’s lives. Particular progress has been made since devolution - although there is much yet to be achieved. The months and years ahead contain many opportunities for human rights, but risks are on the horizon too. It is against this backdrop that the Scottish Human Rights Commission contributes its recommendations to the debate on Scotland’s future.**

In February 2013, the Commission published an Insights Paper addressing the place of human rights in Scotland’s future, set in the context of debates leading up to the 2014 independence referendum. This paper updates and builds on that Insights Paper, identifying specific opportunities for human rights in the post-referendum period, whatever the outcome**.**

Although human rights have not been central to the public debate about Scotland’s future, there have been lively discussions taking place about many of the values and principles which underpin human rights. Questions of democracy, participation, equality, justice and fairness – and how best to realise these in Scotland’s future – have been framing conversations in offices, living rooms, pubs and cafés all over the country.

Whatever the outcome of the independence referendum, it is clear that the landscape ahead will contain a complex bundle of opportunities and risks for human rights. Navigating this landscape is an important project for everyone with a stake in advancing human rights – the Commission, civil society organisations and networks, law and policy makers, public bodies, legal academics and others.

This updated Insights Paper refreshes and updates the Commission’s contribution to the debate on Scotland’s future. Necessarily neutral on the question of independence itself, the Commission has identified three priorities for action.

At a strategic level, **implementation of Scotland’s National Action Plan for Human Rights** is essential, regardless of the constitutional landscape we find ourselves in. The breadth and depth of involvement, partnership and commitment to action in SNAP is testament to the willingness of Scottish public and civic society to advancing human rights.

In particular, continued and concerted efforts must be made to **build a better culture for human rights** so that they become embedded into our everyday lives, including our public services. A strong human rights culture is about shifting power to people so that they understand their rights and can take part in decisions that affect them. A human rights-based approach offers a framework for improving public participation in democracy and decision-making. It is grounded in the principles of participation, accountability, non-discrimination, empowerment and law, which can help strengthen communities and improve outcomes for all.

Improving accountability within a better human rights culture means assuring, rather than assuming, that our rights are realised in practice. This means putting human rights at the heart of the pursuit of national and local outcomes and public service reform. It involves monitoring progress on human rights as part of how we measure our progress as a nation. And it also means plugging gaps in the legal framework of protection that currently exists. **Incorporating all international human rights into Scotland’s own laws** would be a particularly big step forward. This would empower the people of Scotland to hold the Scottish Government and public bodies to account, providing a legal basis for broader efforts to improve Scotland’s human rights culture.

Whatever the outcome, the post-referendum period offers an unprecedented opportunity to reboot and refocus attention in Scotland on human rights. The Commission hopes that our recommendations for action provide a useful contribution to all parties, both in the final phase of the independence debate and, more importantly, as Scotland prepares for 19 September 2014 and beyond.

**SCOTLAND’S HUMAN RIGHTS STORY**

**Human rights in Scotland are at a crucial junction. More than 65 years since the Universal Declaration of Human Rights was adopted, Scotland enjoys a broadly positive climate for human rights. Strong institutions are in place and some practical advances have been made when it comes to the reality of people’s lives. Particular progress has been made since devolution - although there is much yet to be achieved. The months and years ahead contain many opportunities for human rights, but risks are on the horizon too. It is against this backdrop that the Scottish Human Rights Commission contributes its recommendations to the debate on Scotland’s future.**

In 1948, the Universal Declaration of Human Rights recognised the inherent dignity of every human being, affirming the idea that we all have the same rights, rights that belong to us simply because we are human and that cannot be given or taken away by anyone else. Seen as the foundation of freedom, justice and peace around the world, a system of international human rights began to evolve that now comprises a comprehensive set of international laws, treaties and monitoring mechanisms.

Over the following decades, Scotland, as part of the United Kingdom, played an important part in developing international human rights laws. The UK has signed up to many international treaties including the European Convention on Human Rights in 1953, the International Covenant on Economic, Social and Cultural Rights in 1976, the Convention on the Elimination of Discrimination Against Women in 1986, the UN Convention on the Rights of the Child in 1991, the Convention on the Rights of Persons with Disabilities in 2009, and more.

Then, in 1998, the Human Rights Act and the Scotland Act were passed, bringing some (not all) of the human rights in the European Convention directly into Scotland’s own laws. The Scotland Act empowers Scottish Ministers to observe and implement the UK’s international human rights obligations and the combined effect of the Scotland Act and the Human Rights Act places a duty on Scottish Minsters, Parliament and public authorities to comply with the European Convention on Human Rights. They both gave people in Scotland, for the first time, a direct route to enforcing some international human rights through Scotland’s own legal system.

In 2006, the Scottish Human Rights Commission was established by an Act of the Scottish Parliament with a remit to promote and protect all human rights for everyone in Scotland. Accredited within the UN system as an “A status” national human rights institution (NHRI), the Commission also chairs the European Network of over 40 NHRIs and is deputy chair of the International Coordinating Council of over 100 NHRIs, forming a bridge between Scotland and the international human rights community.

This legal and institutional architecture provides an important foundation for the task of making human rights a reality for everyone in Scotland. Although there is much more to do before we Scotland becomes a place where everyone is able to live with human dignity, progress towards that vision has certainly been made. This has been particularly apparent since 1998. For example:

* The Scottish Parliament has adopted legislation that is explicitly rights-based in several areas, including mental health, adult protection and legal capacity.
* The Scottish Parliament has recognized all international human rights in its legislation setting up the Scottish Human Rights Commission and Scotland’s Commissioner for Children and Young People, requiring both to promote and encourage best practice in relation to all international human rights.
* Human rights-based approaches are being adopted, or have been committed to, in a growing number of policy areas including the procurement of care and support services, a strategy for learning disability services, tackling health inequalities, addressing mental health stigma, dementia services, policing and children’s hearings.

In December 2013, Scotland’s first National Action Plan for Human Rights (SNAP) was launched. Developed in collaboration by twelve partner organisations from across Scottish society, SNAP is grounded in a detailed analysis of the gaps in laws, policies and practices when it comes to human rights in Scotland. It consists of a set of detailed commitments to take action to achieve a Scotland where everyone can live with human dignity.

So, Scotland has much to be proud of when it comes to human rights. But there is much more to be done to fully realise human rights for all people, right across the country. Those of us committed to progressing human rights cannot be complacent.

We are entering a defining period for human rights. The months and years ahead will encompass the independence referendum, a UK General Election, a Scottish Parliament election and even a potential referendum on EU membership.

Human rights will feature in each of these debates. We are likely to see a sharpening of the divide between two very different political narratives at Westminster and in Scotland, raising questions for Scotland about how best to respond.

Progressing human rights is possible whatever the outcome of the independence referendum. The Commission believes 19 September can be the beginning of all concerned coming together to explore how best to do that.

**OUR RECOMMENDATIONS**

Whatever the outcome, the post-referendum period offers an unprecedented opportunity to reboot and refocus attention in Scotland on human rights. The Commission has identified three priorities for action.

At a strategic level, **implementation of Scotland’s National Action Plan for Human Rights** is essential, regardless of the constitutional landscape we find ourselves in. The breadth and depth of involvement, partnership and commitment to action in SNAP is testament to the willingness of Scottish public and civic society to advancing human rights.

In particular, **continued and concerted efforts must be made to** **build a better culture for human rights** so that they become embedded into our everyday lives, including our public services. A strong human rights culture is about shifting power to people so that they understand their rights and can take part in decisions that affect them. A human rights-based approach offers a framework for improving public participation in democracy and decision-making. It is grounded in the principles of participation, accountability, non-discrimination, empowerment and law, which can help strengthen communities and improve outcomes for all.

Improving accountability within a better human rights culture means assuring, rather than assuming, that our rights are realised in practice. This means putting human rights at the heart of the outcomes government and public services seek to achieve. It involves monitoring progress on human rights as part of how we measure our progress as a nation. And it also means plugging gaps in the legal framework of protection that currently exists. **Incorporating all international human rights into Scotland’s own laws** would be a particularly big step forward. This would empower the people of Scotland to hold the Scottish Government and public bodies to account, providing a legal basis for broader efforts to improve Scotland’s human rights culture.

**RECOMMENDATION 1:**

**Scotland’s National Action Plan for Human Rights (SNAP) must be implemented, monitored and further developed by government, public bodies, civil society and other relevant stakeholders.**

**Background**

SNAP is the first action plan for human rights to be developed in any part of the UK, providing a roadmap towards a bold vision of a Scotland where each and every person can live a life of human dignity.

Launched in December 2013 after an extensive process of research, development and collaboration, SNAP is now the home for collective action on a wide range of human rights issues, by dozens of partners working across government, civil society and the public sector.

Actions are underway to realise human rights in health and social care settings, to improve access to justice and safety and to explore human rights-based approaches to tackling poverty. Alongside these practical steps, plans are also being developed to raise awareness, understanding and accountability when it comes to protecting human rights, so that a better human rights culture develops across Scotland. Partners in SNAP are also working on initiatives to give better effect to Scotland’s international human rights obligations, with a particular focus on business and human rights, climate justice and international development.

In line with UN guidance on National Action Plans for human rights, SNAP has been developed in an inclusive way, based on evidence of gaps in human rights protection (see *Getting it Right*, published by the Commission in 2012) and will be independently monitored.

Experience from Nordic and Commonwealth countries, among others, shows that National Action Plans have great potential to deliver practical, sustainable improvements in how people’s rights are protected in reality. This is particularly true for people who are marginalised and excluded in society.

SNAP has received strong support from across Scottish civil society and from across the political spectrum, including all sides of the independence debate. This is very welcome and should provide a great foundation for its continued implementation and development, regardless of the outcome of the independence referendum.

**If Scotland votes ‘yes’**

In the negotiations and debates that would follow a vote for independence, it is vital that existing commitments to action contained within SNAP are honoured, implemented and monitored by all concerned. Advancing human rights must not be put “on pause” during the transition to independence.

SNAP currently commits partners to working together until 2017. As this timescale would coincide with a period of constitutional debate and transition through the creation of a new state, it will be important to:

* keep the momentum going in all areas of action taking place through SNAP;
* ensure that lessons are learned about the benefits and challenges of delivering a national action plan for human rights;
* feed these lessons into the development of structures, culture and policy in an independent Scotland;
* build on the experiences of SNAP to develop future strategies to protect and promote human rights from 2017 onwards.

**If Scotland votes ‘no’**

If Scotland votes to remain part of the UK, it seems likely that discussions will continue about the nature of the relationship between constituent parts of the UK, including exploring further devolution of powers from the UK Parliament to the Scottish Parliament. Opportunities to advance human rights should be harnessed wherever possible through this process.

SNAP currently commits partners to working together until 2017. With a new Scottish Parliament being elected in May 2016, it will be important to:

* ensure that lessons are learned about the benefits and challenges of delivering a national action plan for human rights;
* feed these lessons into the development of structures, culture and policy in the context of possible further devolution in Scotland;
* build on the experiences of SNAP to develop future strategies to protect and promote human rights from 2017 onwards.

**RECOMMENDATION 2:**

**Continued and concerted efforts must be made to build a better culture for human rights in Scotland.**

**Background**

Building a better human rights culture in Scotland is already a key objective of Scotland’s National Action Plan for Human Rights. However, given its importance to the protection and promotion of human rights, the Commission draws particular attention to this as an outcome that must be pursued vigorously, whatever Scotland’s constitutional future.

A strong human rights culture is about shifting power to people so that they understand their rights and can take part in decisions that affect them. In a post-referendum Scotland, whatever the outcome, there will be opportunities for renewing democracy, improving people’s participation in decision-making and re-examining relationships between people, government and public institutions. Human rights should be at the heart of those conversations, providing a framework for change that is grounded in values of non-discrimination, accountability, equality and empowerment.

A strong human rights culture also means that we have laws, governance and monitoring systems which provide meaningful accountability when it comes to making rights a reality for everyone. Human rights should be embedded into the way we measure and monitor our progress as a nation, integrated into the outcomes that government seeks to achieve and that our public services are there to deliver.

Building that culture will need continued, concerted action on several fronts, over the long term. This includes:

* investing in education and awareness raising to help people better understand their rights;
* building understanding, skills and knowledge across civil society and the public sector, of how to put human rights into practice to improve people’s lives;
* practical action by government, policy makers and public authorities to embed respect for human rights into the way policies are developed and working practices are improved;
* putting human rights at the heart of the outcomes government and public services seek to achieve, and how we monitor and measure our progress as a nation; and
* hardwiring all human rights into Scotland’s legal system by incorporating them directly into our domestic laws.

All of this can happen whatever the outcome of the independence referendum. However, the opportunities to do so, and the risks that will need to be addressed, will be somewhat different in each scenario.

**If Scotland votes ‘yes’**

If Scotland votes to become independent, it seems likely that some kind of constitutional convention or similar participatory process will take place to develop the constitution of an independent Scotland.

In this scenario, the Commission would want to see a human rights-based approach underpinning this process. This means ensuring that the principles of participation, accountability, non-discrimination and empowerment are central, and that its work is grounded in legally binding human rights commitments.

Looking beyond the process of developing a constitution, the Commission would also want to see continued work taking place to:

* implement human rights education programmes in line with international best practice;
* support public and voluntary sector bodies to put human rights into practice;
* embed human rights into the outcomes that government seeks to achieve (e.g. through national and local outcomes frameworks) and that our public services are charged with delivering (e.g. through initiatives on public service reform and achieving best value);
* embed human rights approaches into the laws and policies of Scotland both during the transition to independence, and beyond.

The Commission also strongly believes that an independent Scotland must, at the very least, assume all of the UK’s existing international obligations when it comes to human rights. We would want to see an independent Scotland going further than this by incorporating all international human rights into Scotland’s domestic laws, including a range of measures that the UK has not yet ratified. This is discussed in more detail in recommendation three.

Finally, the transition to an independent Scotland would take place during a time of continued debate about human rights within the rest of the United Kingdom, a debate which currently carries a significant risk of reducing protection for people’s rights. Scotland will still be part of the UK at the 2015 Westminster general election. It should play a constructive role in making the positive case for advancing human rights across the UK, given its experience of implementing the Human Rights Act and the unhelpful resonance of debates in Westminster across Europe.

**If Scotland votes ‘no’**

If Scotland votes to remain within the United Kingdom, it seems likely that some kind of commission, convention or other participatory process will take place to explore the further devolution of powers to Scotland.

In this scenario, the Commission would want to see a human rights-based approach underpinning this process. This means ensuring that the principles of participation, accountability, non-discrimination and empowerment should be central, and that its work is grounded in legally binding human rights commitments.

The Commission would also want to see continued work taking place to:

* implement human rights education programmes in line with international best practice;
* support public and voluntary sector bodies to put human rights into practice;
* embed human rights into the outcomes that government seeks to achieve (e.g. through local and national outcomes frameworks) and that our public services are charged with delivering (e.g. through initiatives on public service reform and achieving best value);
* embed human rights approaches into the laws and policies developed by the Scottish Government and Parliament, and to any new devolution settlement between Scotland and the United Kingdom.

There is also significant scope for Scotland, as part of the UK, to do more to incorporate all international human rights into its domestic laws. The Commission strongly believes this is instrumental to building a better human rights culture. This is discussed in more detail in recommendation three.

Finally, as part of the United Kingdom, Scotland would be affected by the continued debate about human rights at Westminster, a debate which currently carries a significant risk of reducing protection for people’s rights. Given that the people of Scotland would be directly affected by any regression in human rights protection at UK level, there would be a clear need for Scotland to play a constructive role in making the positive case for advancing human rights across the UK.

**RECOMMENDATION 3:**

**All of the UK’s international human rights obligations should be incorporated into Scotland’s domestic laws.**

**Background**

The UK has played an active role in developing a system of internationally recognised human rights. As part of this, the UK has ratified (voluntarily agreed to be legally bound by) a series of international treaties designed to protect everyone’s human rights. These include the European Convention on Human Rights (ECHR) and seven core UN human rights treaties, which cover a wide range of rights not included in the ECHR.

At the moment, only the human rights contained in the ECHR are incorporated in the law of Scotland (through the Scotland Act 1998 and Human Rights Act 1998). These include the rights to freedom from torture and degrading treatment, and freedom of expression. They do not include rights such as those to an adequate standard of living, and to the highest attainable standard of health. They also do not include children’s rights, or specific human rights standards related to women, black and minority ethnic communities or disabled people.

The Commission believes that incorporating all international human rights obligations into Scotland’s domestic laws is a crucial element of building a better human rights culture.

Incorporation brings several benefits:

* It brings human rights closer to everyday life for everyone. Embedding internationally recognised human rights into our own laws makes them more tangible, accessible and understandable.
* It helps to build a better human rights culture. The incorporation of ECHR rights through the Human Rights Act has required bodies which deliver public services to take action to put rights into practice.

* It enhances access to justice. People have a remedy, and ultimately access to justice, to ensure that human rights are respected in practice.

Ultimately, incorporating all internationally recognised human rights into law would help to ensure they are respected, protected and fulfilled in practice, through policy and through all law-making. For example, a policy like the “bedroom tax” would be assessed for its impact on human rights. If it was found to violate the right to an adequate standard of living, it would have to be repealed or revised.

By failing to incorporate the full range of its international human rights obligations, the UK is falling behind the rest of the world. In Germany, for example, constitutional protections of the right to dignity have been used to successfully challenge welfare and employment policies related to people seeking asylum. Pension reforms in Latvia were found to violate the right to an adequate standard of living.

The Commission welcomes the existing commitment from partners in Scotland’s National Action Plan for Human Rights to exploring the benefits of further incorporation of international human rights. Options to do this will exist whatever Scotland’s constitutional framework looks like after September 2014.

**If Scotland votes ‘yes’**

As a new state, an independent Scotland could incorporate its human rights obligations in a number of ways:

* A written constitution could be developed that incorporated all international human rights into Scottish law.
* The Scottish Parliament could enact a law like the Human Rights Act, extending its scope to incorporate all international human rights into Scottish law.

An independent Scotland should also:

* accept all of the UK’s existing international human rights obligations;
* consider ratifying additional human rights treaties such as those related to the rights of migrant worker;
* review areas where the UK has limited its international obligations through “reservations” and “interpretative declarations”.

**If Scotland votes ‘no’**

The UK is one of only a handful of countries in the world that does not have a written constitution.

However, the Scotland Act and Human Rights Act both bring the European Convention on Human Rights directly into Scotland’s constitutional framework. If Scotland remains part of the UK, this approach could be built on in the following ways:

* The Scottish Parliament could enact new legislation to directly incorporate international human rights obligations into Scottish law, using its existing powers over devolved matters. For example, it could directly incorporate the UN Convention on the Rights of the Child, the UN Convention on the Rights of Persons with Disabilities, the Convention on the Elimination of Discrimination Against Women, the Convention on the Elimination of Racial Discrimination and the International Covenant on Economic, Social and Cultural Rights.
* The Scotland Act could be amended to directly incorporate all of the UK’s international human rights obligations within Scotland. This would require an Act of the UK Parliament.
* The Human Rights Act 1998 could be amended to incorporate more of the UK’s international human rights obligations directly into UK law. This could include additional civil and political rights, such as the right to an effective remedy, or rights from international human rights treaties like the UN Convention on the Rights of Persons with Disabilities, the Convention on the Elimination of Discrimination Against Women and others.
* The UK Parliament could develop a written constitution, including a Bill of Rights. This could be accompanied by Bills of Rights for each of the four nations of the UK. Scotland could incorporate all international human rights obligations into its Bill of Rights.

Whatever the outcome of the independence referendum, there is much to learn from other countries about both the benefits and the process of incorporating international human rights. Different approaches have been taken around the world in a wide range of constitutional settings, with different degrees of success when it comes to effecting improvement in people’s lives.

As part of our commitments through SNAP, the Commission and its partners in government and civil society will continue to explore the full range of benefits and methods of incorporation. We will bring a range of people and organisations together through Innovation Forums in the coming months, where we will look at examples from other countries, what we can learn and apply from these examples in Scotland and how we should best pursue incorporation of human rights in the post-referendum landscape.

**APPENDIX: Incorporating international human rights - what can Scotland learn from other countries?**

**Introduction**

This appendix provides a brief introduction to the range of approaches taken to incorporating international human rights by other countries around the world.

In some countries, international treaties automatically become part of domestic law when they are ratified. These are known as “monist” legal systems. In other countries, like the UK, international treaties are not automatically incorporated when they are ratified. In these countries – known as “dualist” legal systems – domestic law needs to be developed or amended to specifically bring an international treaty into the country’s domestic legal system. This can be done through a written constitution or by ordinary Acts of Parliament. In federal or devolved contexts, this can happen at either national or devolved level.

**Incorporating international human rights through written constitutions**

Internationally, there is a clear trend towards enshrining internationally recognised human rights in written constitutions. Almost all states throughout the world now have a written constitution, setting out, among other things:

* People’s rights
* The state’s duties
* The roles and responsibilities of Parliament, Government and the courts

Some older constitutions incorporated general principles which have since been used to uphold economic and social rights. For example, in Germany, the fundamental principle of human dignity is recognized in its constitution and has been used to challenge breaches of rights relating to the treatment of people seeking asylum. In Ireland, a range of economic, social and cultural rights are included in its constitution as “directive principles”, although these are not legally binding.

Modern constitutions, however, tend to incorporate a broader range of human rights contained in the “International Bill of Rights”, that is:

* The Universal Declaration of Human Rights
* The International Covenant on Civil and Political Rights
* The International Covenant on Economic, Social and Cultural Rights

Some constitutions make broader reference to international human rights law. According to the Constitutions Project[[1]](#footnote-1) (a collaboration between a range of universities in the UK and USA), 64 written constitutions explicitly refer to international human rights law.

**Some examples:**

**Finland**

The Finnish constitution of 2000 includes the rights to education, to adequate housing, a healthy environment, language and cultural rights, work and social protection, and human dignity. It also includes a duty, similar to – but more far reaching than - section 6 of the Human Rights Act, which places a duty on public authorities to observe constitutional and international human rights.

The Constitutional Law Committee in the Finnish Parliament is composed of members of Parliament supported by experts in human rights and constitutional law. It scrutinises the constitutionality of Bills and issues opinions on how they should be interpreted, which are generally considered to be binding.[[2]](#footnote-2)

**Belgium**

International human rights treaties automatically form part of the law of Belgium upon ratification, sitting above the constitution in the legal hierarchy. In addition, the Belgian constitution, as revised in 2012, includes children’s rights and economic, social and cultural rights such as the right to education, work, social security, health care, decent housing, a healthy environment and to cultural and social fulfilment.

**Spain**

The Spanish constitution (revised in 2011) invokes the full range of human rights treaties ratified by Spain.[[3]](#footnote-3)

**Incorporating international human rights through ordinary Acts of Parliament**

Some countries have passed specific statutes to directly incorporate international human rights laws into domestic law. This can take place as well as, or instead of, using written constitutions.

**For example:**

**Norway**

The Human Rights Act of 1999 incorporated the International Covenants on Civil and Political and on Economic, Social and Cultural Rights, as well as the European Convention on Human Rights. In 2003 this was extended to include the Convention on the Rights of the Child.[[4]](#footnote-4)

**Incorporating international human rights through devolved or federal structures**

A number of federated countries, like Australia and Spain, have pursued incorporation of human rights at the devolved or state level through Bills of Rights, Charters or other laws.

**Some examples:**

**Victoria, Australia**

The Victorian Charter of Human Rights and Responsibilities of 2006 incorporates a range of civil and political, economic, social and cultural rights. It requires public authorities to act compatibly with those rights and to take them into account in developing laws and policies, making decisions and delivering services.[[5]](#footnote-5)

While not all rights in international treaties were incorporated in the Charter at first, provision is made for a review of the functioning of the Charter after four years, including consideration as to whether it should be extended to fully incorporate the International Covenant on Economic, Social and Cultural Rights, the Convention on the Rights of the Child and the Convention on the Elimination of All Forms of Discrimination against Women. The review should also consider auditing of public bodies on their compliance with human rights.

**Catalunya, Spain**

The Statute of Autonomy of Catalunya, revised in 2006, requires all public authorities to promote the achievement of the rights in the Universal Declaration of Human Rights and in all international human rights treaties ratified by Spain.[[6]](#footnote-6)

**Brandenburg, Germany**

The Constitution of the Land of Brandenburg, amended in 2013, supplements the Basic Law (constitution) of Germany, including a range of additional human rights protections such as in relation to the rights of the child.[[7]](#footnote-7)

**Current constitutional reform processes**

Constitutional reform processes are on-going in a number of countries including **Iceland**, **Ireland**, and **Norway**. In each of these contexts participatory processes have recommended the incorporation of a broad range of economic, social and cultural as well as civil and political rights.

1. [www.constituteproject.org](http://www.constituteproject.org) [↑](#footnote-ref-1)
2. Amnesty International Ireland, *Bringing ESC Rights Home: the case for legal protection of economic, social and cultural rights in Ireland*, Dublin, 2014. [↑](#footnote-ref-2)
3. Part 1, section 10(2): *“Provisions relating to the fundamental rights and liberties recognized by the Constitution shall be construed in conformity with the Universal Declaration of Human Rights and international treaties and agreements thereon ratified by Spain.”* Similarly in Part 1, Chapter 3, section 39(4), *“Children shall enjoy the protection provided for in the international agreements safeguarding their rights.”* [↑](#footnote-ref-3)
4. UNICEF UK, *The UN Convention on the Rights of the Child: a study of legal implementation in 12 countries*, 2012, p 59. [↑](#footnote-ref-4)
5. See Victorian Equal Opportunities and Human Rights Commission, *Victoria’s Charter of Human Rights and Responsibilities,* <http://www.humanrightscommission.vic.gov.au/index.php/the-charter#what-are-the-benefits-of-having-the-charter> [↑](#footnote-ref-5)
6. Ley Orgánica 6/2006, de 19 de julio, de reforma del Estatuto de Autonomía de Cataluña, Article 4. [↑](#footnote-ref-6)
7. <http://www.landtag.brandenburg.de/media_fast/5701/Verfassung_englisch_Internet_Juli2014.pdf> [↑](#footnote-ref-7)