

**A Human Rights Bill for Scotland:**
**Response from The Young Women’s Movement**

5 October 2023

The Young Women’s Movement is Scotland’s national organisation for young women’s feminist leadership and collective action against gender inequality. We are for all self-identifying young women and girls. We value the power, and recognise the necessity, of working both intersectionally and intergenerationally to achieve change. Young women, girls and non-binary people who recognise themselves within this movement are at the heart of everything that we do by participating, co-designing and leading.

**Summary of our position**

We wholeheartedly welcome the proposed Human Right’s Bill for Scotland and the opportunity to respond to this consultation. We firmly believe that the introduction of new human rights protections is a necessary step toward a fairer and more equitable society, which will ultimately benefit all young women and girls in Scotland. However, the current proposals do not go far enough to provide meaningful protection in law for women’s rights, disabled people’s rights, and the rights of black and minoritised people. The proposed procedural duty on public bodies to think about the human rights of these groups when making decisions and to produce a report, is not adequate in terms of enabling marginalised people to realise their rights.

We hope that the culture change that will accompany the implementation of this bill will address the multifaceted violations and breaches of young women and girls’ human rights in Scotland that have increased exponentially because of the Covid-19 pandemic and the cost-of-living crisis. Young women are struggling to have their basic human rights realised due to poor access to healthcare, employment, a decent standard of living, and a life free of violence and abuse. When these rights are violated, the routes to access justice are often hindered by misogyny and discrimination.

For example, our [Status of Young Women in Scotland Report 2022-23](https://www.youngwomenscot.org/syws), about young women’s experiences of accessing healthcare, shows that young women in Scotland are not accessing the healthcare they need and deserve; Just under a fifth (17%) rated their experiences of accessing healthcare as mostly bad and a further 8% rated it as mostly awful. Young women are not taken seriously in healthcare settings, they are often dismissed, and their experiences are minimised. Many told us they feel patronised and not believed by healthcare professionals.

Young women tell us that they want better understanding of their own human rights, and how to access justice when they are breached. Young women recognise that accessing justice through traditional routes can be retraumatising. How will this legislation ensure that young women can access the justice they deserve? Will there be appropriate and safe routes for young women? Will information about justice routes be accessible to all young women?

There is a crucial need to bolster access to essential support systems, including advocacy, information, advice, and legal aid, ensuring that young women have the necessary resources and assistance to navigate the judicial routes effectively.

We need non judicial supports too; we support advocates on behalf of women and girls that would be accessible and non-judgemental for those who are most marginalised.

Bringing more of our international human rights directly into Scots law must be more than a tick-box or empty-promises exercise – it must bring change. Young women do not want more empty promises. To do this most effectively, a fully participatory, intersectional and collaborative process must be carried out. Young women in scotland should be engaged, and compensated for their time, to meaningfully shape this bill, particularly in support of creating guidance and frameworks to ensure they can access their rights and remedies.

Below we answer the questions that are most pertinent to the work of The Young Women’s Movement.

**4. What are your views on the proposed model of incorporation?**

We largely agree with the proposed incorporation approach which will see the four treaties directly incorporated into law, removing the risk associated with ‘transposition’ which can pose threat to the interpretation of rights. We also agree with the inclusion of the right to a healthy environment. In particular, we welcome the Scottish Government’s commitment to fully incorporate the ICESCR into Scots Law.

However, the model of incorporation needs to be made much better and stronger if it is to realise the rights for more people in Scotland and to have the transformational change that we need.

We fully support the response of Engender, in relation to incorporation of CEDAW and their proposed solutions: “whilst we would ultimately want to see full incorporation of CEDAW, we understand the scale of the restrictions that the Scottish Government are subject to, on account of the equality reservation under devolution. We also understand the political environment constitutionally and the risk of legal challenge under the Scotland Act 1998. Nevertheless, we would urge Scottish Government to work to the extent possible to ensure a maximalist approach in this legislation.”

**5. Rights in the equality treaties that should be treated differently**

We agree with the Human Rights Consortium that it is crucial that this Bill incorporates all the rights in these treaties to the greatest extent possible within devolution, and as strongly as possible.

The decision to not place a ‘duty to comply’ on the special protection treaties is a significant departure from full incorporation of these treaties. We accept that there are complex interactions with the equal opportunities reservation but consider that the consultation does not give sufficient assurance that the approach suggested is maximalist within devolution.

**13. How can we best embed participation in the framework of the Bill?**

Participation plays a pivotal role in shaping the Human Rights Bill and should continue to be considered when defining its purpose, the mechanisms for its implementation, and monitoring and accountability processes.

Participation is at the core of our work, and we are committed to co-designing our programs, research, campaigns, and strategic direction with young women from the outset. We strongly believe that as the bill progresses, equalities organisations should be involved throughout,

The framework should involve those whose rights are most vulnerable, for example young women who are most marginalised by society. For example, young women who are refugees, care experienced, LGBTQ+ or disabled. It should take an intersectional approach to involving these groups; recognising that young women may face multiple forms of discrimination in their lives.

We believe participation should be integrated as a core principle within the Bill's purpose clause. We agree with the Scottish Human Rights consortium that the Human Rights Scheme should mandate Scottish Ministers to engage in meaningful consultation with individuals whose rights are at risk, ensuring their voices are heard and valued. Additionally, we advocate for the establishment of a structured program that promotes the involvement of individuals facing the greatest risks to their rights in determining Minimum Core Obligations, thereby further reinforcing the commitment to equitable human rights protections.

**Questions 14, 15, 16, 18. Equalities Provisions**

We stand in alignment with the perspectives of the Human Rights Task Force, the Human Rights Consortium, national LGBTQ+ organisations in Scotland, and representatives advocating for elderly people. We advocate for the inclusion of an equality provision that explicitly names LGBTI and older people in the Bill. This approach leaves no room for misinterpretation and sends a clear message about the necessity of providing these groups with adequate protection. Furthermore, it ensures that the work of incorporation is future-proofed, safeguarding LGBTQ+ and elderly people's rights across different governments' approaches. We also address the alternative proposition of using 'other status' instead of explicit naming, highlighting that it would introduce ambiguity and necessitate the development of case law, which could hinder these groups in realising their rights, given the frequency of rights violations they face.

We believe that using the term 'people whose rights are most at risk' should encompass a thoughtful consideration of how rights are realised for marginalized groups, especially those falling outside of the traditionally protected characteristics. For example, girls who are part of Gypsy/Traveller families or those within the criminal justice system, as well as those who have a parent in prison.

**19. Duties for Public Bodies**

We agree with Engender’s view that as many organisations and public bodies should be covered by the Human Rights Bill as is possible within powers of devolution, as women’s lives in Scotland interact with all types of support and services across Scotland.

Progress towards gender equality is heavily dependent on the actions and decision-making of public services, as we know that women are disproportionately reliant on services delivered by public bodies. These include public bodies such as Social Security Scotland, the NHS, Education providers, Early Learning and Childcare providers, Social housing providers and many others.

The Scottish Government have already endorsed the recommendation of National Advisory Council for Women and Girls to mandate all Scottish regulators, ombudspersons and oversight bodies to advance equality and rights through the PSED and SSDs. Any such additional duties through the Human Rights Bill must build on this commitment and complement existing duties and requirements of any duty-bearers.

**23. How could the proposed duty to report best align with existing reporting obligations on public authorities?**

 It is important that the reporting duty aligns with, and complements, the reporting duty contained within the UNCRC Bill. We recognise that there may be appetite to align both reporting expectations however we would caution any approach that might minimise reporting on children’s rights. For example, reporting on children’s rights should not be reduced to a chapter within a wider report.

We feel strongly that public authorities must consider how they monitor and evaluate their progress, and how this is reflected within their reporting. Guidance should be provided on how the participation of those with lived experience can be reflected in reporting in a way which is planned, embedded in evaluation and avoiding tokenistic inclusion of voice.

Echoing our response to Question 13, we participation should be considered when defining its purpose, the mechanisms for its implementation, and monitoring and accountability processes.

**26. What is your view on the proposed duty to publish a Human Rights Scheme?**

We support the duty to publish a Human Rights Scheme. To specifically address women's rights and ensure compliance with CEDAW, we propose the creation of a dedicated 'Women's Rights Scheme.' This scheme would fall under the remit of Scottish Ministers and focus on reporting and monitoring CEDAW rights. To support this, a well-resourced regulatory body with gender competence should be established, capable of collecting and analysing gender-disaggregated data on women's rights issues in Scotland.

We echo Engender’s call for active involvement of various interest groups, including rights holders (women) and duty bearers (public bodies, and potentially some private companies), and how their rights should be prioritised. Ensuring full and meaningful consultation, including pre-legislative scrutiny, is essential to the Bill's development, and coordination and capacity-building efforts within the women's sector are vital. Additionally, alignment with an improved gender-competent Public Sector Equality Duty (PSED) for Scotland and the Fairer

Scotland Duty should be sought to ensure consistency and effectiveness in promoting human rights and equality across all spheres of governance and society. Ongoing dialogue and networking should be encouraged to identify and disseminate good practices in rights implementation and compliance.

**27. What are your views on the most effective ways of supporting advocacy and/or advice services to help rights-holders realise their rights under the Bill?**

Young women tell us that they want better understanding of their own human rights, and how to access justice when they are breached. Young women recognise that accessing justice through traditional routes can be retraumatising. How will this legislation ensure that young women can access the justice they deserve? Will there be appropriate and safe routes for young women? Will information about justice routes be accessible to all young women?

Young women will only have their rights realised if specialist organisations, tailored to their needs, who understand how to support women experiencing gendered rights violations, are adequately funded to ensure CEDAW and related CESCR rights are accessible. This must include an intersectional approach, which understands the different types of services different groups require.