

PE2135/D: Implement the International Covenant on Civil and Political Rights (ICCPR) in Scottish legislation

Petitioner written submission, 5 June 2025

As Petitioner, I believe that the introductory information provided to CPPPC members at the 2nd April 2025 committee meeting was misleading and incomplete as follows:

1. Misleading because the reader is led to believe that the Scottish Human Rights Commission (SHRC) concurred with not considering ICCPR during the Human Rights leadership process when in fact SHRC recommends full ICCPR implementation as described in PE2135. This recommendation was ignored in the information presented to CPPPC members.
2. Incomplete because, whilst it fully describes the Scottish Government's unsubstantiated contradiction to the Scotland Act 1998, it makes no reference to the SHRC red flag, cited in my previous submission, alerting readers that, at every level of government, the UK should *"...desist with all policy activities which restrict or undermine the level of protection for civil and political rights as set out in the present Covenant..."*. In the absence of legislative support for the government argument, the SHRC alert is extremely important and should have been communicated to CPPPC members.
3. Incomplete also, because there was no mention that in my earlier submission I had provided independent and authoritative supporting evidence for the Petition from SHRC, the UN Human Rights Committee and the first Chair of SHRC - in stark contrast to the Government's unsubstantiated affirmations contradicting the Scotland Act 1998.
4. Incomplete as well, because the SPICe information doesn't summarise the powers of Parliament to give legal effect to the ICCPR in Scottish legislation as described in The Scotland Act 1998 (Art 30 and Schedule 5).

As Petitioner I'm not allowed to request corrections to the draft Official Report so I therefore invite the CPPPC to (i) review my suggested amendments, inserted in red in the abbreviated draft report below, and (ii) take note thereof at the next CPPPC meeting which considers PE2135.

My suggested amendments to the draft Official Report are as follows:

The Convener: Agenda item 4 is consideration of new petitions. We have two new petitions this morning. in order to progress the petition at its first consideration.

International Covenant on Civil and Political Rights (Implementation in Scots Law) (PE2135)

The Convener: PE2135, lodged by Henry Black Ferguson on behalf of wecollect.scot, calls on the Scottish Parliament to urge the Scottish Government to give the International Covenant on Civil and Political Rights full legal effect in the devolved law making process prior to the next Holyrood parliamentary election.

The SPICe briefing explains that the international covenant was adopted in 1966 and ratified by the UK in 1976 into UK human rights-related legislation. **The briefing sets out that Article 30 and Schedule 5 of the Scotland Act 1998 describe Parliament's power to give legal effect to the ICCPR in Scottish legislation**

The Scottish Government's response to the petition states in the Human Rights Act 1998.

The **Government** submission **contradicts the Scotland Act 1998 and** explains that when incorporating international treaties into domestic law, beyond the Parliament's devolved competence.

The petitioner's submission **quotes the Scottish Human Rights Commission as recommending full implementation of the ICCPR and goes on to contest** the Scottish Government's position and states that the issue of devolved competence is not relevant to the covenant's full implementation. He believes that the Scottish Government's submission **is incorrect because: (i) the Scotland Act 1998 remains unamended and in full force, and (ii) quoting the Scottish Human Rights Commission (SHRC), that the submission "seeks to restrict and undermine the level of protection for civil and political rights as set out in the Covenant" and, therefore, attempts to restrict and undermine** the sovereignty of the Scottish people.

The petitioner also cites the 2024 reports of the SHRC and the UN Human Rights Committee, together with a 2022 speech by the first Chair of SHRC, as independent and authoritative supporting evidence in favour of the petition.

Do colleagues have any comments or suggestions for action?

Fergus Ewing: I have studied the petitioner's response to the Scottish Government's written submission some of which are somewhat technical and legal.

The thrust of it is that the petitioner adduces various examples of statements, notably by the First Minister in 2023, who stated that there should be

"the right to public participation in public affairs as expressed in Article 25 of the International Covenant on Civil and Political Rights."

The petitioner has highlighted that MSPs continue to ignore the Parliament's motion of 2 September 2012, which acknowledges the sovereign right of the Scottish people to determine the form of Government that is best suited to their needs.

The petitioner also challenges the view that the matter is not within the devolved competence of the Scottish Parliament and he refers to the Scottish Human Rights Commission as endorsing that view. the letter raises further issues of substance

that the cabinet secretary, Angus Robertson, should be asked to comment on further in order to do the petitioner justice the petitioner is perhaps right when he states that it is disappointing that the Scottish Government's reply was not issued by Angus Roberston but by an official.

Perhaps Mr Robertson could be asked to give detailed comment on all the arguments that the petitioner set out in response to the initial Government position. but I feel that the petition requires a further response from the Scottish Government.

Maurice Golden: I echo Mr Ewing's comments.but I am unclear as to how international law in the devolved setting is to be adhered to.

I am not looking for that information treaty by treaty but it would be interesting to know what the overall trajectory is.

The Convener: Having looked at the petition, my own preference was to move to close it is the committee content to let the petition run on the basis of the further enquiry to Mr Robertson that has been suggested?

Members *indicated agreement.*