

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

Ewan Kennedy written submission, 11 June 2025

I have been following developments regarding the above petition, and trust that you will accept this submission to the Committee. I do not claim to be an expert, but note in passing that in 1968, the year that the Covenant was signed by the UK, I graduated in Jurisprudence and went on to study further at the Hague Academy of International Law. Because of that I have retained an interest and for many years combined being a part time academic with practicing law as a Glasgow solicitor.

Since that time much of the Covenant has been incorporated into domestic UK law. It is a long established cornerstone of the principles necessary to support modern democracies. I will not lengthen this submission with references to statements by our representatives in support of it, but simply suggest that it would be impossible to find a current MP or MSP who would deny the validity of any of its provisions.

I have read the responses to the Petition from the Scottish Government and SPICe with interest. Frankly, I find the former unhelpful; having noted briefly that the majority of rights, unspecified, under the Covenant have been incorporated, nothing further will be supported. The response from SPICe, with respect, correctly states the principles under which the devolved legislative process operates, but does not specifically focus on the tricky issue of Article One, which for convenience I quote in full:

1. All peoples have the right of self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development.
2. All peoples may, for their own ends, freely dispose of their natural wealth and resources without prejudice to any obligations arising out of international economic co-operation, based upon the principle of mutual benefit, and international law. In no case may a people be deprived of its own means of subsistence.
3. The States Parties to the present Covenant, including those having responsibility for the administration of Non-Self-Governing and Trust Territories, shall promote the realization of the right of self-determination, and shall respect that right, in conformity with the provisions of the Charter of the United Nations.

I suggest that Article One is perhaps the only one of the numerous provisions in the Covenant that may raise the issue of legislative competence under the rules around the devolved settlement. I am as aware as anyone else of the ruling by the UK Supreme Court in the Referendum case, and that it must be regarded as final and binding. As I understand matters, however, the Petitioner does not seek that Holyrood should do anything so self-defeating as to repeat that exercise. In essence he simply asks for acceptance of a principle already accepted universally by all civilised countries, and by all (one hopes!) of our elected representatives.

I suggest that SPICe be requested to return to the subject and prepare a detailed analysis for further discussion on how Article One could be handled in Holyrood when the Committee decides to support it, which I trust they will.