

SUBMISSION TO THE SCOTTISH PARLIAMENT INQUIRY INTO THE SCOTTISH GOVERNMENT'S INTERNATIONAL WORK

EMBEDDING HUMAN RIGHTS IN SCOTLAND'S INTERNATIONAL ENGAGEMENT

PROF. KURT MILLS, UNIVERSITY OF DUNDEE¹
DR. ANDREA BIRDSALL, UNIVERSITY OF EDINBURGH²

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SUMMARY

We seek to address the following element of the Inquiry: What principles should inform the Scottish Government's international engagement (e.g. economic, democratic, human rights, climate change or cultural / 'soft power' priorities)?

Our conclusions are based on a series of workshops we convened in 2020-2021 entitled 'Assessing the Human Rights Potential in Scotland's External Relations' and supported by a grant from the Royal Society of Edinburgh.³

Our conclusions, which we commend to the Inquiry for its consideration, and which we elaborate in more detail below, are as follows:

- The Government's stated objective of being a 'good global citizen' should inform everything that it does internationally. It should identify key areas where it can make a positive difference internationally to support, further develop, and maintain its already significant soft power.
- A key component of such a strategy should include embedding human rights in all aspects of its international engagement.

¹ Professor of International Relations and Human Rights, School of Social Sciences, University of Dundee.

² Senior Lecturer in International Relations, School of Social and Political Science, University of Edinburgh.

³ The goal of this project was to increase understanding of Scotland's current and potential global engagement with human rights issues and how they might be embedded within Scotland's increasingly autonomous approach to foreign affairs. Scotland is playing an independent role internationally, and human rights are more and more relevant in all public endeavours. We engaged with a wide variety of individuals from civil society, government, and academia in the workshops from a number of different countries, including Scotland, Sweden, Catalonia, Canada, Malawi, Pakistan, Yemen and Zambia. More information about the project, including summaries of the workshops, can be found on the project website: <https://bit.ly/3c2wmpQ>.

- The Government should not shy away from highlighting differences with UK policy, particularly in areas where Scotland has a more rights based and ethical stance (e.g. in its overall approach towards migration and refugees) and in areas where it can make concrete contributions internationally.
- We recommend that the Government continues its domestic engagement with international agreements (such as the UN Convention on the Rights of the Child) to progress its approach towards human rights protection even if UK wide policy differs.
- Scotland should continue to pursue its ambitions to become one of only very few countries around the world to have a feminist foreign policy, emphasising ethical and moral duties to protect rights and duties of others.

SCOPE OF SCOTLAND'S EXTERNAL RELATIONS

While foreign policy is a reserved matter for Westminster, it is clear that the Scottish government aspires to, and indeed has implemented, an expanding programme of independent external relations. It is not the first sub-state political actor to do so. Indeed, an article published almost 30 years ago in *Foreign Affairs* entitled 'California's Foreign Policy' highlighted how, as one of the largest economies in the world, the state of California required, and indeed had, foreign relations independent of the US federal government. Since then, there has been increasing recognition that sub-state entities which are not sovereign in the usual meaning of the term still have significant possibilities for engagement beyond their borders.

It could be argued that Scotland is developing an 'emerging foreign policy' which to a large extent is under the radar and not fully developed or well-studied. This emerging foreign policy is developing within the context of Brexit and the UK's 'Global Britain' strategy. Given that Scotland voted overwhelmingly against Brexit, and that the scope and content of 'Global Britain' are unclear, it is vital that Scotland's preferences are clear and consistent, and that a sound, realistic strategy is developed and maintained to achieve its goals.

Scotland's international interests and engagements, while perhaps somewhat divergent, are inextricably linked to Westminster. However, the UK Government does not always use Scotland's unique identity and its existing soft power to its full advantage in the UK's wider foreign policy. At the same time, where Scotland's interests and policies do diverge from wider UK policy, it is incumbent upon Scotland to be up front about this. For example, in terms of the UK's policy towards refugees and immigration as a pertinent human rights issue, it is clear that even though Scotland is taking an overall different approach to Westminster, the Scottish Government still needs to be open about the fact that poor treatment of refugees might still happen in a place like Glasgow due to those differences.

SCOTLAND'S BRAND

Scotland has a distinct brand from the wider UK. While it is obviously identified as being part of the UK (and sometimes misidentified as being part of England), there are clear points of differentiation. Scotland is seen (for example within the EU) as more open to deep international cooperation and pooling sovereignty as a strategy to achieve key national objectives (security, open trade, free movement of people), and much more open to immigration than the UK generally. It is also perceived as being more progressive in terms of

protection of human rights. All of this adds up to a significant amount of soft power potential for Scotland. Indeed, a recent report⁴ on soft power of sub-state regions showed Scotland second only to Quebec in terms of overall soft power potential, while ranking first in Education, Digital, and Enterprise, and scoring highly on human development and human rights. It must also be recognised, however, that a significant amount of Scotland's soft power is beyond the control of the government. But where it does have control is in setting national political agendas and policies which support perceptions of Scotland as a 'good global citizen,' as well as in transmitting the message of those values internationally.

However, the extent to which this soft power can be leveraged by Scotland to achieve its goals is a more open question. It must also be pointed out that sometimes differences between Scotland and the wider UK can be exaggerated, and that political rhetoric must give way to reality when accurately assessing international views of Scotland and the potential concrete value of those views.

THE ROLE OF HUMAN RIGHTS IN SCOTLAND'S EXTERNAL RELATIONS

Like many devolved and regional governments, the Scottish government has developed its own external relations. Harnessing its soft power, it has contributed to shaping foreign policy agendas and shown leadership in the area of human rights. The 2019 National Taskforce on Human Rights Leadership set out Scotland's human rights framework. These activities have become more important in a post-Brexit world in which the Scottish government seeks to carve out a place for Scotland in international relations. We recommend the Scottish Government continues with its active engagement with human rights and furthermore follows through with promises that were made by the (now elected) parties in their manifestos.

In its election manifesto,⁵ the SNP showed that it aims for a strong, positive vision of an active, progressive Scotland playing an outsized role on the international stage, in particular in the areas of peacemaking, development, and human rights. With support from the Greens in government, there seems to be majority political support for such a progressive and engaged Scotland which supports human rights domestically and internationally, even if the key fault line of independence continues to divide the population. Despite constitutional limits on international diplomacy, the new government has ambitious plans for vigorous international engagement, and human rights form a core part of this strategy.

The SNP set out ambitions to be 'the first country in the UK, joining a small number of countries across the world, to adopt a feminist foreign policy' (FFP). If the experiences of those other countries are anything to go by, this will require a long-term project focused on transforming existing power structures, making gender equality the very core of the system. The SNP will need to move beyond using FFP as a 'brand' that generates interest and develop a coherent policy that is transformative, rights-based and non-partisan. Indeed, we note that a feminist foreign policy must be consistently embedded within broader commitments and structures.

⁴ British Council (2020) 'Gauging International Perceptions: Scotland Soft Power', https://scotland.britishcouncil.org/sites/default/files/t0026_scottish_soft_power_doc_s1_v20.pdf

⁵ Our review of all major party manifesto pledges shows general support for human rights across parties in Scotland, although the exact extent and depth of the support from some parties is at times a bit ambiguous. Kurt Mills, Andrea Birdsall, and Naomi McAuliffe (2021) 'Scotland's Approach to Human Rights and Foreign Policy,' *Centre on Constitutional Change* (20 May), <https://bit.ly/2S5ijbP>.

There are clear links between domestic and international policy, and the Scottish Government has been active in making these linkages. The Scottish Parliament recently gave unanimous support to legislation incorporating the UN Convention on the Rights of the Child into domestic law. In its manifesto, the SNP gave further commitment to incorporating four more UN human rights treaties, including the International Covenant on Economic, Social, and Cultural Rights. This indicates a substantial commitment to economic and social rights, not just civil and political rights. Examples include a 'fundamental' right to food and embedding 'equality and human rights in our education'. This sends a signal that Scotland will continue to support and expand human rights protections even as the government in Westminster has signaled an intent to weaken such protections. We recommend that the Government continues its domestic engagement with international agreements to progress its approach towards human rights protection, regardless of wider UK policy.

The concrete actions taken by the Parliament and the Government to support a number of projects in the area of human rights, such as its commitment to the Scottish Human Rights Defender Fellowship and Cities of Refuge as well as numerous peacebuilding activities serve to establish Scotland as a welcoming place for all who are fleeing persecution while at the same time committing itself to fully upholding the rights of all individuals in Scotland. We also note that in recent debates in Parliament on human rights and human rights defenders, members from across the political spectrum rose to declare support for human rights. This supports Scotland's soft power by contributing to its external identity as a progressive supporter of human rights.

CHALLENGES

The above are concrete manifestations of a principled approach to human rights both domestically and internationally. However, the Government and Parliament must recognise that significant issues remain that hold Scotland back from pursuing a credible human rights-based foreign policy. For example, Scotland hosts arms companies whose weapons are implicated in war crimes and crimes against humanity in Yemen and elsewhere. The Government has a principled stance against nuclear weapons, the use of which would result in the worst human rights violations imaginable, but it must also recognise the lives lost and human rights violated by use of conventional weapons produced on its territory and commit to their abolition from Scottish territory in the same way it has with nuclear weapons. Otherwise, its credibility as a 'good global citizen' that takes human rights seriously will be endangered.

Further, it will face many situations where its ambitions and commitment will be challenged as it expands its global reach. Scotland has relationships with a variety of countries, particularly in the area of development, whose commitments to human rights and democracy may be less than firm. The existing practice of providing aid directly to organisations on the ground, rather than through the ruling government, as it does, for instance, in Rwanda, is a positive and innovative way to provide support to the most vulnerable internationally, while keeping an arm's length from human rights abusing governments. Yet, maintaining a delicate balance between the human rights aspirations of the Government and realities of global diplomacy will always be a challenge.

In addition, there will be other situations where such finesse will not be adequate in managing a relationship with a human rights-abusing state. This is particularly the case with China. Scotland obviously wants to have good relations with China. Trade links are important, as are cultural links. One significant element of Scotland's soft power is Higher Education, and many Chinese students wish to come to Scotland to study.

This is positive both for the students and for Scottish universities, as well as Scotland as a whole. However, the government needs to be wary of pressures – including unspoken ones – for it to move back from its progressive human rights positions when dealing with China. Further, a much greater awareness and acknowledgment is required by Scottish universities of the potential human rights repercussions of having large numbers of Chinese students on their campuses. This includes in particular the widely documented spying on Chinese students by other students and agents of the Chinese state at universities around the world. This is a direct challenge to key human rights which are at the cornerstone of Scottish identity, and the Scottish government should ensure that universities are fully aware of their responsibilities towards their students and take actions to prevent violations of the human rights of students on Scottish campuses – even if it means a threat to Scotland’s relationship with China. Mishandling such situations could have a very damaging impact on Scottish external identity and soft power.

RECOMMENDATIONS

- The Government should fully implement its manifesto promises on human rights.
- The Government should continue to pursue its own stance/approach towards human rights, even if this goes against Westminster policy.
- Regardless of current or future constitutional arrangements, the Government should continue to work towards its own foreign policy (or ‘external relations’) that harnesses Scotland’s soft power.
- The Government should continue to pursue its ambitions to have a feminist foreign policy which should be embedded within a broader international approach that is ethically underpinned with human rights at its core. A FFP signals a shift from purely focusing on national interests towards a growing emphasis on ethical and moral duties to protect rights and duties of others. This will require a long-term focus on transforming existing power structures, making gender equality the very core of the system. In order to do so, the government would be well advised to work with civil society to move beyond using FFP as a ‘brand’ that generates interest and develop a coherent policy that is transformative, rights-based and non-partisan.
- Follow the lead of the UK government and produce an annual human rights report. This could, on the one hand, highlight convergence or difference with the UK report, and on the other discuss in detail how the Government has engaged with human rights internationally. This would build on and integrate with its current efforts to contribute to international human rights reporting.
- Emphasize connections to Europe. This will serve to highlight Scotland’s commitment to core European values, including human rights, even as the UK government may begin to diverge and pull back from some human rights commitments. This will bolster Scotland’s soft power – particularly within Europe but also more globally.
- Recognise that while there may be limits to what Scotland can achieve internationally in the area of human rights, even small victories are worth pursuing.
- When developing its foreign policy, the Government should reject the dichotomy between national interests and global interests, recognising that they are interrelated and that unless others around the world have the same things we value and frequently take for granted in Scotland – peace, security,

political participation, personal physical integrity, access to the resources necessary to live in dignity, etc. – the resulting instability creates global challenges to Scotland’s pursuit of these core values.

- Continue to highlight and strengthen initiatives around climate justice, business and human rights, peacebuilding, and supporting an exemplar national human rights institution. These are areas where Scotland has shown leadership and can further develop that leadership, thus contributing to its international reputation and soft power while also bringing direct benefits domestically.
- Recognise that non-governmental actors such as NGOs, universities, and business have a role to play in shaping Scotland’s foreign policy and ensure that they are fully engaged with as Scotland’s foreign policy develops.
- Parliament should 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.