

Equalities, Human Rights and Civil Justice Committee

Human Rights, equalities and access to services in rural areas of Scotland

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1. Introduction

Everyone has the right to civil, political, economic, social, cultural and environmental rights to sustain a quality of life of dignity, including access to health care, employment opportunities, decent housing, education and respect of traditional and cultural ways of life. In rural areas in Scotland specific issues are faced in the enjoyment of such rights. It is welcome that the Committee is exploring these issues as the recent report by the Scottish Human Rights Commission¹ has highlighted that human rights issues faced by rural communities have been rendered invisible with insufficient attention, accountability and redress. This written evidence is designed to draw the Committee's attention to the emerging international human rights framework connected with the concept of rurality and rural rights. It might be helpful to note that there has been a resurgence within the legal domain as to what rural rights mean in everyday practice and what states are required to do to respect, protect and fulfil such rights. This briefing explains the existing legal framework, the emerging international legal obligations of the state (both UK and Scotland) and highlights human rights issues specific to the Scottish rural context for consideration.

2. Human rights and equality obligations in rural Scotland **- *European Convention on Human Rights***

Scotland has human rights obligations under the Human Rights Act 1998 and the Scotland Act 1998 requiring compliance with the European Convention of Human Rights. Whilst the ECHR is largely limited in scope to civil and political rights, the dynamic interpretation of the treaty includes recognition of the right to particular social, economic and environmental components of the rights to life (Art.2), freedom from

inhumane and degrading treatment (Art.3), the right to education (A2P1) and to family life (Art.8).² This dynamic interpretation of the treaty gives rise to wider considerations relating to transport for school³, non-discrimination in the enjoyment of services including social security⁴ and culturally appropriate forms of housing provision,⁵ all of which are applicable in the context of rural life.

- **Equality**

Under the Equality Act 2010, the public sector equality duty⁶ requires public bodies to have due regard to the need to—

- a) *eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act;*
- b) *advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and*
- c) *foster good relations between persons who share a relevant protected characteristic and persons who do not share it*

The judiciary has quashed economic decisions where equality impact assessments have not been carried out correctly under the PSED, i.e. where due regard has not been exercised.⁷ Case law has expanded what constitutes the “due regard test”⁸:

- “i) The public authority decision maker must be aware of the duty to have “due regard” to the relevant matters;*
- ii) The duty must be fulfilled before and at the time when a particular policy is being considered;*
- iii) The duty must be “exercised in substance, with rigour, and with an open mind”. It is not a question of “ticking boxes”; while there is no duty to make express reference to the regard paid to the relevant duty, reference to it and to the relevant criteria reduces the scope for argument;*
- iv) The duty is non-delegable; and*
- v) Is a continuing one.*
- vi) It is good practice for a decision maker to keep records demonstrating consideration of the duty.”⁹*

In the Scottish case of *McHattie*¹⁰ a judicial review was raised against the council for failing to meet their PSED before taking the decision to close an Adult Day Care Centre. The Kyle Centre provided a key service to disabled users. The council chose to close the centre based on a budgetary decision without paying due regard to its PSED under the Equality Act 2010. The Court of Session ordered the council to keep the centre open thus implicitly ensuring a number of economic, social and cultural rights, including the right to live independently and be included in the community.¹¹ Whilst rurality is not itself a protected characteristic, it is possible other intersecting

characteristics associated with rurality might give rise to particularly important requirements on public bodies in a rural context, including age, disability and race, including ethnicity.

The Committee may wish to reflect on whether there is scope to enhance protection to 'rurality' under the exception to the equal opportunities reservation in Schedule 5 of the Scotland Act 1998. There may be scope to enhance protection under this exception in a way that recognises the particular equality issues faced in rural settings. The Scottish Parliament could ask the UK and Scottish Government to clarify the scope of the equal opportunities reservation with a view to extending protection to the category "language or social origin, or of other personal attributes". The exception to the reservation states that it the encouragement (other than by prohibition or regulation) of equal opportunities, and in particular of the observance of the equal opportunity requirements, is within the devolved competence. Further guidance on rurality as a form of social origin would be particularly helpful in relation to decision-making that fails to take into account the particular circumstances of rural life, such as the costs of transport based on time rather than mileage, central decisions based on population size rather than geographical stretch, budget allocation (or lack thereof) for fluctuating population size based on seasonal changes, lack of appropriate facilities to support rural infrastructure – such as new hospitals without housing for staff.

- *UNCRC*

The UN Convention on the Rights of the Child includes the rights to education (Art.28&29) health (Art.24), family and home life (Art.16) and an adequate standard of living (Art.27), including decent housing, food, fuel and social security (Art.26). Public bodies have an obligation under the UNCRC Incorporation (Scotland) Act 2024 to comply with the UN Convention on the Rights of the Child in relation to functions that fall within scope of the Act (section 6). For example, sections 7 and 8 of the Island Communities (Scotland) Act 2018 require local authorities to pay due regard and conduct impact assessments for policies, strategies or services that is likely to have an effect on island communities. When those decisions also impact children the public functions under section 7 and 8 of the Island Communities Act are within scope of the UNCRC compatibility duty and will require to comply with the UN Convention on the Rights of the Child – including participative processes that enable children to share their views (Article 12 – children have a right to have a say in all matters affecting them and for their views to be taken seriously).

It would be helpful to understand to what degree the UNCRC is now featuring as part of rural decision-making and in the delivery of services. Are local authorities, for example, aware of these new legislative obligations and what support mechanisms are in place to help foster UNCRC compliance? For example, in decisions related to schools, housing, hospitals, transport and wider rural infrastructure, the UNCRC should play an integral role in connection with any public functions exercised under an Act of the Scottish Parliament. The Committee may wish to request from duty bearers

whether there is disaggregated data indicating how such decisions are formed and if and how human rights are considered, including via various impact assessment mechanisms. For example, children can be expected to travel great distances to access education, in some instances requiring them to live 5 days of the week away from their families in less than satisfactory hostel accommodation.¹² These types of policies should be subject to close scrutiny in terms of human rights compatibility.

- *Proposed Human Rights Bill*

In July 2025 the Scottish Government published a Discussion Paper reaffirming its commitment to the incorporation of a number of international treaties, including the International Covenant on Economic, Social and Cultural Rights and the right to a healthy environment.¹³ There are numerous cross-cutting issues engaged under economic, social, cultural and environmental rights relevant for rural communities, including the right to the highest attainable standard of health (Art.12), the right to social security (Art.9), the right to an adequate standard of living (Art.11), including food, fuel, housing and water, and the right to participate in cultural life (Art.15). It is within devolved competence to observe and implement international obligations, including those covered by ICESCR, in relation to devolved matters.¹⁴ The treaty requires states to take steps to protect, respect and fulfil Covenant rights. This means proactively planning for the progressive realisation of the rights, ensuring minimum core standards, gathering appropriate data to ensure non-discrimination in the enjoyment of rights, creating access to justice mechanisms and enabling effective remedies for violations of the rights. It also requires states to justify any interference with the rights by demonstrating the interference is reasonable, legitimate, necessary and in accordance with the law. There is an expectation that public services under ICESCR will meet the threshold of services that are available, affordable, accessible and of good quality (the AAAQ framework). This helps provide a benchmark for the Committee to reflect on some of the issues faced and whether the services provided in rural Scotland meet the AAAQ framework. If for example, health care is available, but neither geographically accessible or practically affordable because patients require to pay for accommodation or transport then there is a breach of the AAAQ framework. The Human Rights Bill offers an opportunity to create a broader human rights culture that embeds clearer standards in meeting economic, social, cultural and environmental rights and it would be helpful for the Scottish Government to consider the issue of rural rights specifically in connection with this programme of work.

3. Rurality under international law

There has been a recent intensity of engagement with the concept of rurality in international human rights law. This in part derives from the climate emergency and recognition that communities in rural or remote areas face increasing risks associated with climate change. Indeed, it is recognised that rural communities are the least likely to cause anthropogenic climate change whilst simultaneously facing the worst consequences of human-driven degradation of our ecosystems and biodiversity loss.¹⁵

New combined theories of ecological and social justice, or eco-social justice¹⁶, have emerged that seek to embed the concepts of intergenerational (justice for future generations), intragenerational (justice between communities using an intersectional lens) and interspecies justice (more-than-human justice extending rights to other living things).¹⁷ This trajectory has also seen the rise of the rights of nature, where legal personhood and rights are attributed to natural environments including forests, seas, rivers and other natural entities.¹⁸

International law recognises that rural communities are deeply connected to the land, which forms part of their intangible cultural heritage.¹⁹ Land and rurality are intrinsically connected to the enjoyment of the right to take part in cultural life owing to the particular spiritual or religious significance of land to many communities, for example, when land serves as a basis for social, cultural and religious practices or the expression of cultural identity.²⁰

In turn, there is increasing recognition of the types of rights violations faced within the context of rural settings where multiple intersecting issues come to the fore. For example, since 2023 the UN Committee on Economic, Social and Cultural Rights has produced two key General Comments clarifying the scope of ICESCR in the context of land and economic, social and cultural rights (2023, General Comment 26) and economic, social and cultural rights and the environmental dimension of sustainable development (2025, General Comment 27). This trend is also reflected in the proliferation of international environmental law that requires state parties to respond to the climate crisis in a way that acknowledges the role of Indigenous Peoples and Local Communities as custodians of land, environment and traditional ecological knowledge.²¹ The Convention on Biological Diversity, by way of example, requires a human rights-based approach to tackling nature conservation and restoration whilst at the same time requiring state to integrate traditional ecological knowledge by listening to local communities.²² In Europe, the Intergovernmental Science-Policy Platform on Biodiversity and Ecosystem Services has raised concerns about the internal erosion of indigenous and local knowledge undermining obligations under the Biodiversity Convention.²³ The Council of Europe has responded by enhancing its focus on the delivery of the Landscape Convention, which the UK has ratified, requiring states to strengthen the link between human rights and the environment with a view to their mutual protection and enhancement.²⁴ The UN Committee on Economic, Social and Cultural Rights has indicated that these “interconnected challenges call for enhanced guidance on implementing economic, social and cultural rights, placing the human dignity of present and future generations, along with environmental justice, at the centre.”²⁵

I bring these issues to the attention of the Committee as it may be helpful to be aware of the wider trends in international law whereby there is increasing recognition of the indivisible nature of economic, social, cultural and environmental rights and the indispensable role rural communities play in enabling broader enjoyment of the right to a healthy environment for everyone. Rurality and specific human rights issues facing

rural communities can therefore be thought of in a mirrored or relational sense. First, due to increasing centralisation and budget constraints caused by austerity measures, rural communities face increasing risk of hardship in access to economic, social, cultural and environmental rights including health services, education, jobs, livelihoods and good quality housing. Second, they also face existential risks related to eviction or loss of access to land or infrastructure due to the concentration of private land ownership (discussed below). Third, there is increasing pressure on the feasibility of rural life – placing those communities under increased pressure therefore constructing patterns in depopulation, migration and the loss of community-based local knowledge and practice as well as traditional ways of life. This creates a problem for multiple intersecting international obligations including human rights obligations²⁶, state obligations relating to the protection of intangible cultural heritage indispensable to our connection to land and environment²⁷ (including the potential loss or lack of respect for traditional ecological knowledge and practice²⁸), and state obligations relating to nature restoration²⁹, net zero targets and climate change³⁰. This then leads to broader human rights implications as we lose out on the role rural communities have played in intergenerational custodianship of land and environment, thus risking the wider enjoyment of eco-system services such as access to food, water, biodiversity and a healthy environment for society more broadly.³¹

The Committee may wish to reflect on the emergence of these trends at the international level and how it connects to the Committee's remit and the types of human rights issues faced by rural communities. There is an increasing likelihood that the right to a healthy environment will dominate human rights discourse and jurisprudence globally, comparatively and domestically. It would therefore be helpful to reflect on the interconnected nature of human rights, the environment and wider connections in relation to land and cultural heritage. As this is a constantly emerging and burgeoning field of research it may be helpful to refer to the work of Mairi McFadyen and others who work on intangible cultural heritage and nature recovery in the Scottish Highlands (see the recent British Academy Commissioned Paper here: [Integrating Intangible Cultural Heritage in nature recovery: a place-sensitive approach in the Scottish Highlands](#)).³² Scottish concepts such as *dùthchas* – a worldview emphasising the deep-rooted connection between people, nature and land - can offer historically rooted solutions that mirror the very interactions emerging as requirements of international law (i.e. the necessity of connecting human rights to the cultural dimensions of nature and the environment). It might provide a helpful lens for the Committee to reflect on how such concepts can be interpreted with respect to ancestral knowledge held by communities across the Gàidhealtachd as well as other traditional/ non-traditional ways of life and members of rural communities from diverse backgrounds. The Cairngorms Park Authority, by way of example includes an inclusive interpretation of *dùthchas* as a living concept that invites diverse communities to connect with nature and rights in a way that resonates with them, creating a shared 'park for all'.³³

4. Human rights implications of the concentration of land ownership in rural communities

Rural communities report that there are increasing problems around centralisation of services and a lack of human-rights based decision making and planning in connection with the provision of education, health, livelihoods and housing.³⁴ These issues are intimately connected to the concentration of land ownership in Scotland. Scotland has one of the most concentrated patterns of landownership anywhere in the world, with just 433 people and companies owning half of all Scotland's privately owned land.³⁵ This means that rights relating to housing, access to food and livelihoods can be dependent on the relationship between those who live on the land and those who own the land – in other words, we are inadvertently relying on unsustainable and archaic models whereby rights realisation is dependent on the benevolent landlord. For example, displacement, or evictions from both housing and long-term land tenure have been at the whim of landlords and decisions around change of land use.³⁶ The rapid expansion of carbon markets has driven widespread land-use changes, with soaring land prices linked to large-scale tree planting for carbon credits, frequently overlooking the social consequences for local communities.³⁷ This proliferation of 'green land investment' – or the rise of 'Green Lairds' in Scotland, has pitted local communities and their everyday needs against a narrow understanding of conservation that seeks to de-people areas.³⁸ These tensions are evident in the literature as a conceptual inconsistency between two conflicting views: one that sees nature as a 'wild, wilderness' to be protected from human influence, and another that views nature as a human-inclusive, biocultural entity that is both 'peopled and historied'.³⁹

This type of fortress conservation practice has been condemned as antithetical to human rights for rural communities⁴⁰ and should form part of an inquiry into understanding the barriers such communities face.⁴¹ Research demonstrates it is an unaddressed gap:

*"The current massive changes in land use in rural Scotland, although designed to deliver positive climate and biodiversity outcomes, are not actually doing so. This is what we are hearing from local communities at the sharp end of the transformation of land use, who are experiencing consequences like loss of livelihoods, loss of land for growing food locally, and flooding."*⁴²

Best practice suggests that conservation and human rights compliance is best achieved when local communities are genuinely included, protected, empowered and respected. This requires a systemic shift away from treating local communities as passive or disconnected from the land, to autonomous custodians of their environment and rights holders who require respect, inclusion and support that enables a sustainable way of rural life.⁴³ Human rights based decision-making is indispensable to service delivery in rural communities legally and practically.

The UN Committee on ESC Rights recommends that legal frameworks should avoid the increased concentration of land ownership.⁴⁴ The Committee recommends that states should develop laws and policies to guarantee that land-based investments are made in a responsible manner and with the participation of impacted local communities.⁴⁵ This means enhanced forms of early participation of all affected parties and the fair regulation of transfer processes.⁴⁶ Whilst the recent Land Reform Act 2025 has taken steps to regulate the concentration of ownership research also indicates further reform is required. The Scottish Land Commission's 2025 report *ScotLand Futures*⁴⁷ highlights key concerns that it is too difficult to find out who owns land and that the number of absentee landlords mean there is a lack of accountability in terms of how land is managed. The report highlights:

*“absentee ownership, whether by individuals, companies or overseas investors, was seen as a major source of frustration. People described the economic and social consequences as reduced local spending, a lack of engagement, and a feeling that decisions are made from a distance. The perceived rapid rise in absentee corporate and international land ownership was seen as particularly corrosive to community cohesion, the feeling of being hostage to fortune when land changes hands or trying to engage with a faceless corporate entity was highlighted by many as a real and demoralising challenge.”*⁴⁸

In a similar vein, the report indicates there is a lack of sufficient consultation processes on housing, renewable energy, forestry and large-scale investment projects – where people say they do not have a say on what happens in their local community and to land where they live.⁴⁹

Equal access to sufficient and transparent information for all parties involved in decision-making is key for human rights-based participation in decision-making. The UN Committee on Economic, Social and Cultural Rights recommends relevant laws, policies and procedures to ensure transparency, participation and consultation in relation to decision-making affecting land, including in relation to land registration, land administration and land transfers, as well as prior to evictions from land.⁵⁰ Decision-making processes should be transparent, organized in the relevant languages, without barriers and with reasonable accommodation for all involved.⁵¹

Consultation processes require to be genuinely inclusive, participatory, empowering and using methods familiar with the communities – tokenistic or proceduralised/ box-ticking exercises are a violation of rights realisation and a form of disempowerment. The Committee may wish to consider how to create a more inclusive form of participatory decision-making for rural communities, such as through the development of Community Protocols, designed by local communities that set out standards developed by communities themselves when organisations, including state actors, are required to hear their views.

5. Access to justice

As the Committee is aware from its recent inquiry into civil legal aid⁵², there are extensive legal aid deserts across Scotland and especially in rural areas, indicating that access to legal services, including legal advice is scarce. We do not have the data to assess to what extent access to justice is available, if at all, in relation to many rural issues. For example, social housing cases relating to evictions or standard of repair are not published by the sheriff courts. Whilst the Housing Property Chamber of the First Tier Tribunal publishes decisions relating to private tenancies, this data is not disaggregated by area – meaning it is not searchable for specific issues relating to rurality. In a similar vein, the Scottish Public Ombudsman Service does not disaggregate data. However, when using searchable terms such as “highlands and islands” or “rural” two cases are findable where recommendations were made in favour of the complainant. These cases relate to inadequate school transport in Shetland⁵³ and repair and maintenance of housing stock in Stirling.⁵⁴ The lack of data together with the known gap in connection with legal aid deserts suggests that, by and large, those living in socio-economic deprivation in rural Scotland exist in a justice vacuum. The Scottish Multiple Index of Deprivation (SIMD) suggests that rural deprivation is still not fully understood or accounted for in national measures.⁵⁵ For example, there are clusters of deprivation in rural areas: Highland; Western Isles; North, East and South Ayrshire, Dumfries and Galloway and the Borders. The SIMD warns that the seemingly better performance across some parts of the North West Highlands and the Grampian Mountains may hide local deprivation where low paid workers and the elderly population live alongside wealthy landowners.⁵⁶ In order to address deprivation and the issues faced by those experiencing deprivation in rural areas the SIMD suggests “we need to look at other ways of assessing need and making decisions about allocating resources.”⁵⁷ At the moment, there is data to help understand some of the issues faced in relation to problems of transport and distance to employment and services are very important features of rural deprivation.⁵⁸ However, research suggests that we do not have the data, and therefore the visibility, of the depth of rural deprivation, equality, human rights or access to justice issues.⁵⁹ This is then compounded by the lack of legal services on the ground that would help make rural injustice more visible. The Evans Review into civil legal assistance acknowledged that legally aided work is often not feasible within the current model of provision in Scotland – meaning legal services are not available to those who cannot afford it in rural communities.⁶⁰

Why is this important in the context of rural areas and access to justice? Rural injustice remains largely invisible. National measures relating to poverty, deprivation and allocation of resources do not adequately account for rural needs. We know that access to justice for violations of human rights and equality breaches is a significant gap across Scotland.⁶¹ Research indicates that violations of economic, social, cultural and environmental rights are both clustered and systemic in nature.⁶² In other words, people experience a multitude of overlapping unmet legal needs relating to housing,

welfare provision, health etc. (clustered injustice) and the pervasiveness of these issues are often system-wide (systemic injustice), for example, as a result of insufficient resources, because of repeated errors in decision-making (human and digital) or because support services are not fit for purpose. The civil justice system is not designed to address clustered and systemic injustice – legal needs are addressed on an individual basis and legal aid is not available for collective forms of redress.⁶³ This clustered and systemic injustice becomes embodied by those who carry the burden of the justice gap, in particular where there is place-based service deprivation.

The UN Committee on Economic, Social and Cultural Rights urges states to ensure access to justice in remote areas is accessible and affordable, particularly for disadvantaged and marginalised individuals and groups.⁶⁴ Judicial remedies should be tailored to the conditions of rural areas and suited to the needs of victims of violations.⁶⁵ In addition, non-judicial remedies designed to provide access to justice closer to home, including complaints mechanisms, regulators and the Scottish Public Service Ombudsman, need to be calibrated in a way that enables participative and inclusive processes as well as the ability to deliver effective relief for human rights violations.⁶⁶

¹ Scottish Human Rights Commission, [ESC rights in the Highlands and Islands | SHRC Spotlight Projects](#) (2024)

² For example the right to healthy environment was interpreted as part of a wider definition of Articles 2 and 8 in *Verein KlimaSeniorinnen Schweiz and Others v. Switzerland* Application No. 53600/20, 9 April 2024

³ *ZB & Anor, R (On the Application Of) v London Borough of Croydon* (Rev1) [2023] EWHC 489 (Admin) (07 March 2023)

⁴ when welfare benefits fall within the 'ambit' of a Convention right the ECHR may offer a form of protection if there is alleged discrimination under Article 14 (non-discrimination) *Adami v Malta* 44 EHRR 3, para 17

⁵ *Connors v. United Kingdom*, (European Court of Human Rights, Application no. 66746/01, 27 May 2004), para. 95.

⁶ Section 149

⁷ For example see the case of *Harjula v London Borough Council* [2011] EWHC 151 (QB) in which the judge quashed the decision of the council for failing to consider its obligations under s71 Race Relations Act 1976, section 76A Sex Discrimination Act 1976 and section 49A Disability Discrimination Act 1995 (these provisions have been replaced by section 149 of the Equality Act 2010). See also the 2011 case against Birmingham Council for failing to have due regard to equality duties by failing to consult. Held: the budgetary re-allocation of funds was declared unlawful, *on the Application of W,M,G & H v Birmingham City Council*, [2011] EWHC 1147 Admin

⁸ *McHattie v South Ayrshire Council* [2020] CSOH 4; *Bracking and others v Secretary of State for Work and Pensions* [2013] EWCA Civ 1345; *R (Brown) v Secretary of State for Work and Pensions* [2008] EWHC 3158 (Admin); *R (Elias) v Secretary of State for Defence* [2006] 1 WLR 3213; [2006] EWCA Civ 1293; *R (BAPIO Action Ltd) v Secretary of State for the Home Department* [2007] EWHC 199 (QB); *R (National Association of Health Stores) v De-partment of Health* [2005] EWCA Civ 154;

⁹ *R (Brown) v Secretary of State for Work and Pensions* [2008] EWHC 3158 (Admin); *R (Elias) v Secretary of State for Defence* [2006] 1 WLR 3213

¹⁰ *McHattie v South Ayrshire Council* [2020] CSOH 4

¹¹ Article 19 UNCPD

¹² James McEnaney, [It's time for a political solution to the Mull school saga | The Herald](#) 14 October 2025

¹³ [Human Rights Bill for Scotland: discussion paper - gov.scot](#)

¹⁴ Exception to the Foreign Affairs reservation, Para.7(2) Schedule 5 of the Scotland Act 1998

¹⁵ General Comment 27, UN Committee on Economic, Social and Cultural Rights, 26 September 2025, E/C.12/GC/27 available at [E/C.12/GC/27: General comment No. 27 \(2025\) on economic, social and cultural rights and the environmental dimension of sustainable development \(advance unedited version\) | OHCHR](#)

¹⁶ Pedersen, S., Stevis, D., & Kalfagianni, A. (2024). What is planetary justice? *Environmental Politics*, 1–9. <https://doi.org/10.1080/09644016.2024.2418222>

- ¹⁷ Joyeeta Gupta, Klaudia Prodani, Xuemei Bai, Lauren Gifford, Tim M. Lenton, Ilona Otto, Laura Pereira, Crelis Rammelt, Joeri Scholtens & Joan David Tàbara (2024) Earth system boundaries and Earth system justice: sharing the ecospace, *Environmental Politics*, 33:7, 1286-1305, DOI: 10.1080/09644016.2023.2234794
- ¹⁸ Jérémie Gilbert, *Human Rights & the Rights of Nature: Friends or Foes?*, 47 *Fordham Int'l L.J.* 447 (2024)
- ¹⁹ Convention for the Safeguarding of Intangible Cultural Heritage UNESCO 2003
- ²⁰ General Comment 26, para.10
- ²¹ Article 8(j) Convention on Biological Diversity
- ²² *ibid*
- ²³ IPBES (2018): Summary for policymakers of the regional assessment report on biodiversity and ecosystem services for Europe and Central Asia of the Intergovernmental Science-Policy Platform on Biodiversity and Ecosystem Services. M. Fischer, M. Rounsevell, A. Torre-Marín Rando, A. Mader, A. Church, M. Elbakidze, V. Elias, T. Hahn, P.A. Harrison, J. Hauck, B. Martín-López, I. Ring, C. Sandström, I. Sousa Pinto, P. Visconti, N.E. Zimmermann and M. Christie (eds.). IPBES secretariat, Bonn, Germany. 48 pages
- ²⁴ Council of Europe Landscape Convention ETS 176 and CETS 219 [Council of Europe Landscape Convention / Official website - Council of Europe Landscape Convention](#)
- ²⁵ General Comment 27, UN Committee on Economic, Social and Cultural Rights, 26 September 2025, E/C.12/GC/27 available at [E/C.12/GC/27: General comment No. 27 \(2025\) on economic, social and cultural rights and the environmental dimension of sustainable development \(advance unedited version\) | OHCHR](#)
- ²⁶ Civil, political, economic, social, cultural and environmental
- ²⁷ The UK is party to the Convention for the Safeguarding of the Intangible Cultural Heritage 2003
- ²⁸ Traditional knowledge and practice connected to nature forms part of intangible cultural heritage protected in the International Treaty
- ²⁹ Convention on Biological Diversity
- ³⁰ Article 3(3) of the United Nations Framework Convention on Climate Change requests Parties to take precautionary measures to anticipate, prevent or minimize the causes of climate change and mitigate its adverse effects. The Paris agreement acknowledges that Parties should, when taking action to address climate change, respect, promote and consider their respective obligations on human rights, including the rights of indigenous peoples and local communities among others. Article 7(5) states that any adaptation action by Parties should be based on and guided by the best available science and, as appropriate, traditional knowledge, knowledge of indigenous peoples and local knowledge systems, with a view to integrating adaptation into relevant socioeconomic and environmental policies and actions.
- ³¹ IPBES (2018): Summary for policymakers of the regional assessment report on biodiversity and ecosystem services for Europe and Central Asia of the Intergovernmental Science-Policy Platform on Biodiversity and Ecosystem Services. M. Fischer, M. Rounsevell, A. Torre-Marín Rando, A. Mader, A. Church, M. Elbakidze, V. Elias, T. Hahn, P.A. Harrison, J. Hauck, B. Martín-López, I. Ring, C. Sandström, I. Sousa Pinto, P. Visconti, N.E. Zimmermann and M. Christie (eds.). IPBES secretariat, Bonn, Germany. 48 pages
- ³² Mairi McFadyen, Chris Mackie, Elle Adam and Raghnaid Sandilands, Integrating Intangible Cultural Heritage in nature recovery: a placesensitive approach in the Scottish Highlands (British Academy 2025), available at [Integrating Intangible Cultural Heritage in nature recovery: a place-sensitive approach in the Scottish Highlands](#)
- ³³ McFadyen et al *ibid* p.19
- ³⁴ Scottish Government, Green land investment in rural Scotland (2021) available at [Supporting documents - Green land investment in rural Scotland: social and economic impacts - gov.scot](#)
- ³⁵ [Community-Land-Scotland-and-REVIVE-briefing-on-land-reform.pdf](#)
- ³⁶
- ³⁷ D. Ní Mhathúna, 'Traditional Ecological Knowledge and the relevance of *Dùthchas* in *Gàidhealtachd* Environmental Futures' (2021) *Scottish Affairs* 30 (2) 251-261; I. MacKinnon and A. Mackillop, *Plantation Slavery and Landownership in the West Highlands and Islands: Legacies and Lessons* (Community Land Scotland, 2020) [www.communitylandscotland.org.uk](#)
- ³⁸ Scottish Government, Green land investment in rural Scotland: social and economic impacts, 14 December 2023, [References - Green land investment in rural Scotland: social and economic impacts - gov.scot](#)
- ³⁹ Déirdre Ní Mhathúna, Traditional Ecological Knowledge and the relevance of *Dùthchas* in *Gàidhealtachd* Environmental Futures Article in *Scottish Affairs* · May 2021 MacKinnon, I. and Mackillop, A. (2020). *Plantation Slavery and Landownership in the West Highlands and Islands: Legacies and Lessons*. Published discussion paper for Community Land Scotland: [www.communitylandscotland.org.uk](#)
- ⁴⁰ K.S. Bawa et al. 'Rights, governance, and conservation of biological diversity' (2011) *Conservation Biology* 25 (3) 639-641
- ⁴¹ Helen Newing et al, Conservation and Human Rights, An Introduction, The Interdisciplinary Centre for Conservation Science (ICCS), Oxford UK and Forest Peoples Programme (FPP), Moreton in Marsh, UK (2024) [Conservation-and-Human-Rights-an-introduction.pdf](#)
- ⁴² Thomas Fisher and Theona Morrisson, Challenging dominant narratives to enable effective responses to pandemics and other crises in rural and island communities, *Artic Yearbook* 2023, available at [https://arcticyearbook.com/images/yearbook/2023-special/scholarly_papers/12_Challenging_dominant_narratives.pdf](#)
- ⁴³ Helen Newing et al, Conservation and human rights: an introduction (ICCS 2024) available at [Conservation-and-Human-Rights-an-introduction.pdf](#)
- ⁴⁴ General Comment 26, para.27
- ⁴⁵ General Comment 26, para.28

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- ⁴⁶ Ibid
- ⁴⁷ Scottish Land Commission, ScotLand Futures (November 2025) available at [ScotLand Futures What We Heard: A national call for change](#)
- ⁴⁸ Ibid
- ⁴⁹ Ibid
- ⁵⁰ CESC 26
- ⁵¹ CESC 26 para.20
- ⁵² [Report on the Equalities, Human Rights and Civil Justice Committee inquiry into Civil Legal Assistance in Scotland](#)
- ⁵³ [Decision Report 201700875 | Shetland Islands Council | SPSO](#)
- ⁵⁴ [Decision Report 201103787 | Rural Stirling Housing Association Ltd | SPSO](#)
- ⁵⁵ [SIMD2020: Overall Deprivation Map - Scotland's data on a map](#)
- ⁵⁶ [SIMD2020: Overall Deprivation Map - Scotland's data on a map](#)
- ⁵⁷ [SIMD Scottish Index of Multiple Deprivation 2020: introduction - gov.scot](#)
- ⁵⁸ Ibid
- ⁵⁹ Carol Hill and David Clelland, Poverty and Deprivation in Dumfries and Galloway, Dumfries and Galloway Council (2015) available at [108111.pdf](#)
- ⁶⁰ Evans Review, Rethinking Legal Aid, An Independent Strategic Review (2018) available at [Rethinking+Legal+Aid+-+an+independent+strategic+review+\(1\).pdf](#) p.60
- ⁶¹ For a discussion on this see the Committee's report on the Civil Legal Aid Inquiry (EHRCJ 17 September 2025) available at [Report on the Equalities, Human Rights and Civil Justice Committee inquiry into Civil Legal Assistance in Scotland | Scottish Parliament](#)
- ⁶² Katie Boyle et al, Access to Social Justice (BUP 2025) available at [Bristol University Press | Access to Social Justice - Effective Remedies for Social Rights](#), By Katie Boyle, Diana Camps, Kirstie English, Jo Ferrie, Aidan Flegg and Gaurav Mukherjee
- ⁶³ See my evidence to the Committee on Regulation 15, [Report on the Equalities, Human Rights and Civil Justice Committee inquiry into Civil Legal Assistance in Scotland | Scottish Parliament](#)
- ⁶⁴ CESC 26, para.60
- ⁶⁵ CESC 26, para.60
- ⁶⁶ Katie Boyle, *Access to Justice for Everyone*, (Scottish Human Rights Commission 2023) available at <https://www.scottishhumanrights.com/media/2496/access-to-justice-for-everyone-a-discussion-paper.pdf>