

# Equalities and Human Rights Committee of the Scottish Parliament

## ‘Human Rights and The Scottish Parliament’

### Society for the Protection of Unborn Children Scotland response to the inquiry

The Society for the Protection of Unborn Children Scotland wishes to respond to a particular question of the inquiry: **What more could the Scottish Parliament do to ensure that international treaties, for example, the United Nations Convention on the Rights of the Child (UNCRC) and other international human rights obligations are being followed in Scotland?**

There are several points which we would like to raise in regard to the principles of human rights. We believe that there is a need to address human rights embodied in international treaties, such as the UNCRC, in order that their principles are understood and upheld in an objective matter.

It is possible in any society that particular attitudes and ideas come to be accepted simply from being handed down from one generation to another. This can ensure the continuation of a successful society, but at times it can blind society to prevailing human rights failings. We therefore wish to call to the attention of the Parliamentary Committee those values of human rights that we believe have become obscured through social conditioning. These human rights are enshrined in International Law and should be upheld to ensure that these rights are meaningfully protected and enjoyed by all.

## Conscience

Human rights instruments which have arisen post world war II have been inspired by the profound assessment that took place at that time on the values and insights gathered in diverse cultural and political environments. The world seemed to recognise at that time that a law existed to which every polity and individual conscience had to submit. Arguments of those who had committed legally approved acts were not permitted to excuse themselves from upholding the human rights values that the international community recognised as having ultimate authority above state law.

Freedom is consistently a value prized by every person and healthy democracy. At the core of freedom is the ability to direct one's own life. At the very core of every human person is the desire to act in accordance with their most deeply held values. Within each person is a capacity to know how they wish to act and to choose to pursue that course of action. This capacity is recognised in international human rights instruments as freedom of conscience. Whilst at times the conscience can be in error, it is an internal conviction that we feel must be followed. It is therefore the kernel of individual freedom. It can be, at times, that someone may desire to perform some act in accord with their conscience but the interests of others, in accord with right reason, require that such action not be permitted. In such circumstances it can be proper for society to maintain order and the common good by restricting individual conscience, the threshold for such an interference must be a high one. To force one to act contrary to their conscience is, however, an act which cannot be condoned. It may be the case that a person may have to refuse to act in contradiction of their conscience and suffer the consequences, for example to refuse to perform a particular job. However, a free society should give broad scope to ensure that individual conscience is given as much freedom as possible within the bounds of the common good and the interests of others.

## Freedom of Conscience in International Law

### European Convention of Human Rights

#### Article 9

Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to... manifest [...] religion or belief, in worship, teaching, practice and observance

### The Parliamentary Assembly of the Council of Europe

#### Resolution 1763(2010)

1.No person, hospital or institution shall be coerced, held liable or discriminated against in any manner because of a refusal to perform, accommodate, assist or submit to an abortion, the performance of a human miscarriage, or euthanasia or any act which could cause the death of a human foetus or embryo, for any reason.

...

4. In view of member states' obligation to ensure access to lawful medical care and to protect the right to health, as well as the obligation to ensure respect for the right of freedom of thought, conscience and religion of health-care providers, the Assembly invites Council of Europe member states to develop comprehensive and clear regulations that define and regulate conscientious objection with regard to health and medical services, and which:

(1) guarantee the right to conscientious objection in relation to participation in the medical procedure in question;

## Speech

The universally recognised right to freedom of speech is a value highly prized in any democratic society. It is a right which ensures that ideas can be proposed, challenged and elucidated in a free and open manner. The ability to express our ideas allows each person and civic organisation to participate effectively in the public life of our nation. To undermine this right is a hallmark of despotic regimes. In recent decades we have been accustomed to a broad tolerance of expression in our society, including expression of those views that can challenge, disturb and offend. However, in very recent times this situation has been challenged by some who propose that it is not acceptable to offend others. Whilst setting out to offend is at times an abuse of the right, it is one which would require a very high threshold, such as attempts to incite violence, to permit interference in this right without jeopardising the essential democratic value.

It has come to our attention that University students across Scotland have had their freedom of speech challenged. Groups of pro-life students at various Universities, including but not limited to Glasgow University and Glasgow Strathclyde University, have not been allowed to affiliate a pro-life society with the student union. A university should be a centre for free and open dialogue, and not a place at which students are silenced for holding a particular opinion.

## Freedom of Speech in International Law

### **The Universal Declaration of Human Rights**

#### Article 19

everyone shall have the right to hold opinions without interference

...

everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice.

## Life

International standards of human rights consistently identify the right to life as an absolute and essential right. Developments in human rights regimes have created increasing positive obligations that require state authorities to protect the right to life. This has included a growing respect for life that has precluded recourse to the death penalty.

These rights are being blatantly ignored and contravened in our society by way of abortion. It is this cultural blind spot that must be addressed in Scotland should we wish to be objectively consistent and true to human rights standards. As stated above it is understandable that the 'received wisdom' of a previous generation or other influential cultural players be accepted at face value. But in order to have a robust human rights system worthy of that name, the principles of human rights must be properly upheld. Our abortion regime is a flagrant human rights abuse which not only deprives a human being of life but is also reported by many women as an instrument used to subject them to the personal violation of abortion due to the coercion of others and of societal acceptance of the practise. Typically the interpretation of human rights laws requires that provisions be given their maximum scope, it can be seen from the extracts below that in relation to the right to life, it is to be respected for "every human being", for "everyone", and "before as well as after birth". It is simply not tenable to permit the deprivation of life through abortion and remain in accord with the rights enshrined in our international human rights instruments. In any society it is difficult to challenge deeply rooted attitudes but if the Parliament is serious about upholding human rights it must have the courage to identify this ongoing human rights abuse.

## Right to Life in International Law

### **International Covenant on Civil and Political Rights**

#### Article 6

1. Every human being has the inherent right to life. This right shall be protected by law. No one shall be arbitrarily deprived of his life.

...

5. Sentence of death shall not be imposed for crimes committed by persons below eighteen years of age and shall not be carried out on pregnant women.

### **The Universal Declaration of Human Rights**

#### Article 3

Everyone has the right to life, liberty and security of person.

## **UN Convention on the Rights of the Child**

### Preamble

Bearing in mind that, as indicated in the Declaration of the Rights of the Child, “the child, by reason of his physical and mental immaturity, needs special safeguards and care, including appropriate legal protection, before as well as after birth”.

...

### Article 6

1. States Parties recognize that every child has the inherent right to life.
2. States Parties shall ensure to the maximum extent possible the survival and development of the child.

## **European Convention on Human Rights**

### Article 2

(1) Everyone’s right to life shall be protected by law. No one shall be deprived of his life intentionally save in the execution of a sentence of a court following his conviction of a crime for which this penalty is provided by law.

(2) Deprivation of life shall not be regarded as inflicted in contravention of this Article when it results from the use of force which is necessary:

- (a) in defence of any person from unlawful violence.
- (b) in order to effect a lawful arrest or to prevent the escape of a person lawfully detained.
- (c) in action lawfully taken for the purpose of quelling a riot or insurrection.

## **Charter of Fundamental Rights of The European Union**

### Article 2 Right to Life

1. Everyone has the right to life.
2. No one shall be condemned to the death penalty, or executed.

We ask that the Equalities and Human Rights Committee, in their consideration of ‘Human Rights and the Scottish Parliament,’ seek to promote and protect these rights to the greatest possible extent.

## **SPUC Scotland**

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