



DEBATE PACK

Number CDP 2016/0053, 29 February 2016

Future framework for human rights in Scotland

This Commons Library debate pack has been prepared for the Westminster Hall debate on the future framework for human rights in Scotland on Wednesday 2 March 2016. The debate has been tabled by Richard Arkless MP.

The Conservative manifesto included a commitment to repeal the Human Rights Act 1998 and introduce a British Bill of Rights. The 2015 Queen's Speech stated that the Government would bring forward proposals to reform the Human Rights Act 1998. The Human Rights Act 1998 enables courts in the United Kingdom to apply and give legal effect to the rights in the European Convention of Human Rights to which the UK has acceded.

In Scotland, human rights are also protected through the Scotland Act 1998. The Act states that the Scottish Parliament cannot legislate contrary to Convention rights, and that the Scottish Executive cannot act contrary to Convention rights. The Scottish Government has stated that the implementation of the Conservative Government's plans would require a legislative consent motion from the Scottish Parliament. This debate pack provides information on the devolution dimension to reforming the human rights framework in Scotland.

The Commons Library briefing paper [A British Bill of Rights?](#) contains a section on the devolved settlement.

The House of Commons Library prepares a briefing in hard copy and/or online for most non-legislative debates in the Chamber and Westminster Hall other than half-hour debates. Debate Packs are produced quickly after the announcement of parliamentary business. They are intended to provide a summary or overview of the issue being debated and identify relevant briefings and useful documents, including press and parliamentary material. More detailed briefing can be prepared for Members on request to the Library.

Jack Simson Caird

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1. The Human Rights Act 1998 and the Scotland Act 1998

The [Human Rights Act 1998](#) gives direct effect in UK law to the provisions of the European Convention on Human Rights (ECHR). It does not contain any substantive rights itself, but rather defines “Convention rights” as those rights and fundamental freedoms set out in the Convention and its protocols (to which the UK has acceded). The relevant Articles of the Convention are set out in Schedule 1 of the HRA.

The [Scotland Act 1998](#) (SA) sets out the devolution arrangements for Scotland. The Act places certain restrictions and obligations on the powers of Scottish institutions and Ministers with respect to human rights.

- Section 29(2)(d) limits the legislative competence of the Scottish Parliament with respect to any provision which is incompatible with any of the Convention rights.
- Section 57(2) provides that members of the Scottish Government do not have the power to enact secondary legislation or exercise any other function in a way which is incompatible with Convention rights.
- Schedule 4, paragraph 1(2)(f) provides that the HRA is one of the protected enactments which cannot be modified by the Scottish Parliament.
- Section 126 defines “Convention rights” by reference to the HRA, and “the Human Rights Convention” as:
 - a) the Convention for the Protection of Human Rights and Fundamental Freedoms, agreed by the Council of Europe at Rome on 4th November 1950, and
 - b) the Protocols to the Convention, as they have effect for the time being in relation to the United Kingdom.

Schedule 5 does not define human rights per se as one of the reserved matters which are outside the competence of the Scottish Parliament.

Under paragraph 7 of Part I of Schedule 5, international relations, including treaty making powers, are reserved. Therefore the decision to sign up to the ECHR (or withdraw from it) would be for Westminster. However, the observation and implementation of obligations under the Human Rights Convention are specifically exempted from this provision.

Several of the policy areas which are defined as reserved matters in Part II of Schedule 5 engage the rights protected under the ECHR, for example data protection (para B2); immigration and nationality (para B6); national security, interception of communications, official secrets and terrorism (para B8). At the same time, other matters which may also

The Human Rights Act 1998

Section 3 states that “so far as it is possible to do so” legislation must be read and given effect by the courts in a way which is compatible with Convention rights.

Section 4 enables a court to issue a “declaration of incompatibility” if it is satisfied legislation is not compatible with a Convention right.

Section 6 (1) provides that it is “unlawful for a public authority to act in a way which is incompatible with a Convention right”.

engage protected rights, such as criminal justice, prisons, health, and education, are devolved.

1.1 The Sewel Convention

The original formulation of this convention was set out by Lord Sewel on the Second Reading of the Scotland Bill in 1998:

...we would expect a convention to be established that Westminster would not normally legislate with regard to devolved matters in Scotland without the consent of the Scottish Parliament.¹

This Convention is now set out in a Memorandum of Understanding between the UK Government and the devolved administrations. Paragraph 14 states:

The United Kingdom Parliament retains authority to legislate on any issue, whether devolved or not. It is ultimately for Parliament to decide what use to make of that power. However, the UK Government will proceed in accordance with the convention that the UK Parliament would not normally legislate with regard to devolved matters except with the agreement of the devolved legislature. The devolved administrations will be responsible for seeking such agreement as may be required for this purpose on an approach from the UK Government.²

Clause 2 of the [Scotland Bill](#) currently before Parliament would seek to place this provision on a statutory footing, by amending section 28 of the *Scotland Act 1998* (Acts of the Scottish Parliament) with an additional subsection:

(8) But it is recognised that the Parliament of the United Kingdom will not normally legislate with regard to devolved matters without the consent of the Scottish Parliament.

Section 28 also states, at subsection (7), that the section does not affect the power of the Parliament of the United Kingdom to make laws for Scotland.

1.2 Would repeal of the HRA 1998 trigger the Sewel convention?

There is disagreement over whether human rights are devolved or reserved. Alex Neil MSP, the Cabinet Secretary for Social Justice, Communities and Pensioners' Rights in the Scottish Government, on the 12 May 2015, said:

The Scottish Government's position is that implementation of the Conservative Government's proposals would require legislative consent and that this Parliament should make it clear that such consent will not be given. On 11 November last year, this Parliament passed a motion in support of the Human Rights Act 1998 by a majority of 100 to 10.

¹ [HL Deb 21 July 1998, col 791.](#)

² [Memorandum of Understanding and Supplementary Agreements Between the United Kingdom Government, the Scottish Ministers, the Welsh Ministers, and the Northern Ireland Executive Committee](#), October 2013

There is currently insufficient detail in what is proposed to predict with any certainty the impact on Scotland. However, given the almost unanimous opposition in this Parliament and among Scottish members of Parliament at Westminster, it would remain open to exclude Scotland from legislation to repeal the 1998 act or for the Scottish Government to pass legislation to give effect to a range of rights in policy areas that are within devolved competence.

If the UK Government followed through on its threats to withdraw from the European convention on human rights, people in Scotland would no longer be able to take cases to the European Court of Human Rights. The ECHR is the world's most successful human rights treaty and it has been hugely influential around the world. It is incumbent on this Parliament to send a clear message that the proposals are unacceptable and will not receive our support.³

Dr Mark Elliot, Professor of Public Law at the University of Cambridge, has suggested that repeal of the HRA would not affect the extent of the devolved institutions' competences, despite the fact that those competencies are limited by the same provisions of the ECHR as are given effect by the HRA:

...[t]he fact that those competencies are so circumscribed is attributable not to the [HRA] but to the devolution legislation, into which the ECHR rights are hard-wired as a constraint upon devolved institutions' authority. In other words, devolved administrations and legislatures are bound by the ECHR independently of the [HRA], because the ECHR rights are effectively written into the devolved nations' principal constitutional texts, ie the devolution statutes. (Admittedly, the Convention rights that bind the devolved institutions are defined parasitically upon the [HRA], in that the expression "Convention rights" is said in the devolution statutes to bear the same meaning as in the [HRA]. However, it seems to me that the [HRA] could be repealed in a way that would leave unaltered the range of rights that circumscribe the devolved institutions' competencies, meaning that repeal would not trigger Sewel.)⁴

Iain Jamieson, a retired UK and Scottish Government lawyer involved in the drafting of the SA, disagrees with this interpretation:

Human rights as such is not a reserved matter and paragraph 7(2) of Part 1 of Schedule 5 specifically provides that the reservation of "international relations" does not reserve the observing and implementing of the Human Rights Convention which is defined as the ECHR and its protocols. However, the Scottish Parliament is prevented from making its own provision for giving effect to that Convention in Scots law by section 29(2)(c) and paragraph 1(2)(f) of Schedule 4 because the effect of any such provision would be to modify the effect of the HRA. It therefore follows that, if that paragraph is spent or repealed with the repeal of the HRA, this would have the effect of increasing the competence of the Scottish Parliament. It could even re-enact the HRA for Scotland. Therefore the Sewel convention would be triggered.

Similarly, even although the HRA is only being used as a dictionary in order to define what is meant by "Convention rights" for the

³ SPOR, 12 May 2015 col 6.

⁴ Mark Elliott, [Could the Devolved Nations Block Repeal of the Human Rights Act and the Enactment of a New Bill of Rights?](#), 12 May 2015, Public Law for Everyone

purposes of the Scotland Act, the repeal of the HRA would mean that there would no longer be any substance to that definition. It would, as we used to say, beat the air and the courts would not know how to interpret that expression. This would have the effect of removing the restrictions on the competence of the Scottish Parliament in section 29(2)(d) and of the Scottish Ministers in sections 53, 54 and 57 and, as a result, increasing their competence. This again would trigger the Sewel convention.

Similarly, the repeal of the HRA would have the effect of increasing the powers of the UK Government to intervene in Bills passed by the Scottish Parliament under section 35, or in actions, or proposed actions, by Scottish Ministers under section 58, if the Secretary of State considered that the Bill contained provisions, or the action or proposed action, would be incompatible with any international obligations. This is because the definition of "international obligations" in section 126 (10) would no longer have the exception for Convention rights if that reference ceased to have any meaning. This would have the effect of restricting the competence of the Scottish Parliament and Scottish Ministers by subjecting them to an increased control by the UK Government and therefore triggering the Sewel convention.

Finally, the repeal of the HRA would affect the definition of "compatibility issue" in section 288ZA of the Criminal Procedure (Scotland) Act 1995, and the operation of the provisions of that Act which were inserted by Part 4 of the Scotland Act 2012. These make provision for the reference to the High Court or the Supreme Court of those issues, in criminal proceedings, regarding the compatibility of certain actions with section 6 of the HRA or of certain provisions in an ASP with Convention rights. This would have the effect of triggering the Sewel convention both in its original sense as used by Lord Sewel and in its extended application.⁵

⁵ Iain Jamieson, [The Repeal of the Human Rights Act and the Sewel Convention in Scotland](#) 12 June 2015, Scottish Constitutional Futures Forum

2. Press and blogs

2.1 Newspaper articles on HRA reform and devolution

[Holyrood could block Cameron's bid to scrap Human Rights Act, says ex-Tory Attorney General](#)

The Herald
18 May 2015

[Sturgeon riles Tories on human rights law](#)

Scottish Express
September 24, 2015

[Nicola Sturgeon set to lock horns with Tories over abolition of Human Rights Act: THE First Minister is dismayed by the Tory government's plans to scrap the Human Rights Act and will urge Holyrood to oppose the abolition of the Act in Scotland](#)

Daily Record
September 23, 2015

[Academic warning on rights act plan](#)

Belfast Telegraph
17 June 2015

[Scotland bill may give Holyrood veto over Human Rights Act repeal](#)

Guardian
28 May 2015

['Nothing short of a constitutional crisis' if Tories try to repeal Human Rights Act](#)

The National
14 May 2015

[ACADEMIC WARNING ON RIGHTS ACT PLAN](#)

PA Newswire: Scotland
June 17, 2015

[Why repealing the Human Rights Act is not going to be easy](#)

FT.Com
12 May 2015

[Human Rights Act: Tory plans to scrap policy slammed as 'appalling' by Scottish Government](#)

Independent
12 May 2015

[Scotland bill may give Holyrood veto over Human Rights Act repeal](#)

Guardian

28 May 2015

["Scrapping Human Rights Act 'would breach Good Friday agreement"](#)

The Guardian

12 May 2015

[Plan to repeal rights act raises N Ireland fears; London-Dublin tension](#)

FT.Com

18 May 2015

[Michael Gove's attempt to repeal the Human Rights Act faces almost insurmountable odds; The new Justice Secretary's quest for a British Bill of Rights will run into serious legal obstacles - not to mention the political opposition](#)

Telegraph

11 May 2015

2.2 Blogs on HRA reform and devolution

Mark Elliott

[Could the Devolved Nations Block Repeal of the Human Rights Act and the Enactment of a New Bill of Rights](#)

Public Law for Everyone Blog

12 May 2015

Iain Jamieson, [The Repeal of the Human Rights Act and the Sewel Convention in Scotland](#)

12 June 2015, Scottish Constitutional Futures Forum

Mark Elliott, [The Scottish Parliament, the Sewel Convention and Repeal of the Human Rights Act: A Postscript](#)

September 29 2015

Public Law for Everyone Blog

Blog of the National Assembly for Wales Research Service

5 November 2014

[A "British Bill of Rights": implications for devolution,](#)

Law Society Gazette

28 September 2015

[Scots set to 'block' UK rights bill](#)

Centre on Constitutional change
[Human Rights Act Repeal and Devolution](#)

2.3 Newspaper articles on HRA reform

[Gove move delays Bill of Rights](#)

Telegraph
Steven Swinford
22 February 2016

[Westminster demands right to vet Scottish government correspondence with foreign nations](#)

Scottish Herald
Rob Edwards
28 February

Consultation on Bill of Rights to take place 'soon'

Independent
Lewis Smith
3 February 2016

The Justice Secretary, Michael Gove, backtracked yesterday on Tory threats to break from the European Convention on Human Rights (ECHR). The Government plans, Mr Gove said, to open consultation "soon" on replacing the Human Rights Act 1998 with a British Bill of Rights. However, he has conceded that the Bill is likely to contain the same rights as are already in place. "We at the moment envisage that all the rights contained within the convention will be affirmed in any British Bill of Rights, but where rights are subject to potential qualification then it may be the case that we emphasise the importance of one right over another," he told the Lords' EU Justice Sub-Committee. [...]

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[Tories back away from human rights pledge](#)

Kate Allen, Political Correspondent
Financial Times (subscription required)
2 February 2016

[UK to seek changes on troops' service and free speech in European rights law; Justice secretary Michael Gove says proposed UK bill of rights will not 'derogate absolutely' from European convention](#)

Guardian
Owen Bowcott
2 February 2016

[Delay in publishing UK bill of rights plans could affect Holyrood elections](#)

Scottish Legal News
22 January 2016

3. Parliamentary business

3.1 Parliamentary questions

Constitutional Legislation

Callum McCaig: What discussions he has had with the Scottish Government on the potential effect of a British Bill of Rights on Scotland.

Gavin Newlands: What discussions he has had with the Scottish Government on repeal of the Human Rights Act 1998.

Ms Tasmina Ahmed-Sheikh: What discussions he has had with the Scottish Government on repeal of the Human Rights Act 1998.

The Attorney General (Jeremy Wright): The Government are considering the devolution implications of the Bill of Rights carefully. That will of course include engaging fully with the devolved Administrations in Scotland, Wales and Northern Ireland.

Callum McCaig: It emerged during an evidence session to the House of Lords Constitution Committee that the UK Supreme Court may be given a new role as a UK constitutional court. Given that the UK Supreme Court is the final court of appeal for Scottish civil cases and has a role in the devolution aspects of Scottish criminal cases, will the Attorney General commit to consulting with the Scottish Government before any such proposals are included in a consultation?

The Attorney General: If the hon. Gentleman is referring to the Lord Chancellor's evidence to that Committee, which I have read, he is not quite right; the Lord Chancellor was talking about the prospects for considering how the Supreme Court might fulfil a different role, and he was referring to the German example of how that is done. The hon. Gentleman will also know that no proposals have yet been brought forward; he will see them when they are. As I, the Lord Chancellor and others have said, we will ensure that there is proper consultation on any proposals.

Gavin Newlands: As the Attorney General will be aware, both the Joint Committee on Human Rights and the Council of Europe's Commissioner for Human Rights have independently commented on the undesirability of any overlap between the proposed consultation on the Bill of Rights and pre-election periods, including for the Scottish Parliament elections in May. What discussions has he had with the Justice Secretary regarding publication of the consultation?

The Attorney General: Again, the hon. Gentleman will have to wait to see the proposals when they are brought forward. On timing, he will know that the Cabinet Office has very clear guidelines on respect for purdah periods before elections, and I know that my right hon. Friend the Lord Chancellor is keen that all due regard is paid to them.

Ms Ahmed-Sheikh: The Attorney General might not be aware that the Scottish Government's Cabinet Secretary for Social Justice, Communities

and Pensioners' Rights, Alex Neil MSP, recently wrote to the Secretary of State for Justice to express concern that he has not sought to discuss the proposal to repeal the Human Rights Act with the Scottish Government. Given the wide implications of any repeal of the Act on Scotland, does the Attorney General agree that the Secretary of State for Justice must formally engage with the Scottish Government to discuss their concerns?

The Attorney General: The hon. Lady is right; I have not seen that letter. But I do know that Mr Neil, and indeed other Scottish Government Ministers, have had contact with UK Government Ministers to discuss these matters. I can reassure her that when the proposals are brought forward, there will be proper consultation with the devolved Administrations.

Richard Arkless: The impending imposition of the British Bill of Rights could have the effect of curtailing the jurisdiction of the Court of Justice in Luxembourg as well as the Court in Strasbourg. Is it not the case that that will require further renegotiation with our EU partners and, therefore, should it not have formed a crucial part of the recent so-called renegotiation?

The Attorney General: I am not sure that there is much appetite anywhere in Europe for re-opening those negotiations. The hon. Gentleman might find that there are proposals coming from this Government to make our relationship with the charter of fundamental rights clearer, based on protocol 30 of the treaties which, as he will be aware, was negotiated by a previous Government. The protocol makes it clear that the charter does not extend rights in this country. We will bring forward further proposals on clarifying that, and again he will have a good opportunity to discuss them when he sees them.

Oral Questions | [HC Deb 25 Feb 2016 cc435-6](#)

European Convention on Human Rights

Ms Harriet Harman: The Minister is yet to issue his consultation on the repeal of the Human Rights Act and its replacement with a British Bill of Rights, but it is eight weeks until the Scottish Parliament is dissolved and goes into purdah—it is the same with Northern Ireland and Wales. Will he give an absolute guarantee that he will not squash out Scotland, Northern Ireland and Wales from this important consultation by issuing his proposal before, or worse still during, the election purdah period? Will he give that absolute guarantee?

Mr Raab: There will be no squashing out of any of the devolved Administrations. We are already in detailed soundings. When we come to our consultation, there will be full consultation with all the devolved Administrations. There are clear rules and Cabinet Office guidance on purdah, and we will be mindful of them.

Oral Questions | [HC Deb 6 Jan 2016 c143](#)

Bill of Rights: Scotland

Asked by: Ian Murray

To ask the Secretary of State for Justice, what consultation he has had with the Scottish Parliament on the consultation period on the repeal of the Human Rights Act 1998 and its replacement with a British Bill of Rights.

Answered by: Dominic Raab

We have already sought views and will continue to engage with the devolved administrations to deliver a modernised and reformed human rights framework for the whole of the United Kingdom. We are committed to consulting fully on our proposals prior to the introduction of any legislation and will announce further details in due course.

29 Jan 2016 | Written questions | [PQ 24327](#)

Bill of Rights: Scotland

Asked by Ian Murray

To ask the Secretary of State for Justice, what assessment he has made of the implications of the forthcoming Scottish Parliament elections and dissolution of the Scottish Parliament on the consultation period in respect of the Government's proposed repeal of the Human Rights Act 1998 and replacement by a British Bill of Rights.

Answered by: Dominic Raab

We are committed to consulting fully on our proposals prior to the introduction of any legislation and will announce further details in due course.

We will adhere to any guidance published by the Cabinet Office in respect of the pre-election periods. We have already sought views and will continue to engage with the devolved administrations to deliver a modernised and reformed human rights framework for the whole of the United Kingdom.

[29 January 2016 | Written questions | PQ 24326](#)

Bill of Rights: Scotland

Asked by: Ms Harriet Harman

To ask the Secretary of State for Scotland, what discussions he has had with the Secretary of State for Justice on (a) the nature of the Government's consultation on the proposed Bill of Rights and associated measures and (b) ensuring that that timing does not overlap with the period of the purdah of the Scottish Government or the dissolution of the Scottish Parliament.

Answering member: David Mundell

I meet with Cabinet colleagues and other ministers regularly to discuss a wide range of matters. We are committed to consulting fully on our proposals prior to the introduction of any legislation and we will announce further details in due course.

27 Jan 2016 | Written questions | [PQ 23583](#)

European Convention on Human Rights

Asked by: Ms Harriet Harman

The Minister is yet to issue his consultation on the repeal of the Human Rights Act and its replacement with a British Bill of Rights, but it is eight weeks until the Scottish Parliament is dissolved and goes into purdah—it is the same with Northern Ireland and Wales. Will he give an absolute guarantee that he will not squash out Scotland, Northern Ireland and Wales from this important consultation by issuing his proposal before, or worse still during, the election purdah period? Will he give that absolute guarantee?

Answered by: Mr Raab

There will be no squashing out of any of the devolved Administrations. We are already in detailed soundings. When we come to our consultation, there will be full consultation with all the devolved Administrations. There are clear rules and Cabinet Office guidance on purdah, and we will be mindful of them.

26 Jan 2016 | Oral questions - Supplementary | [HC Deb 605 c142](#)

Bill of Rights: Devolution

Asked by Richard Arkless

To ask the Secretary of State for Justice, what account he has taken of the distinction between reserved and devolved matters in the devolved administrations in his plans for the proposed British Bill of Rights and for consultation on that proposed bill.

Answered by: Dominic Raab

The government was elected with a mandate to reform the UK's human rights framework. We are considering the implications of a Bill of Rights on devolution as we develop our proposals. We will, of course, fully engage with the devolved administrations.

18 Dec 2015 | Written questions | [PQ 19836](#)

Human Rights Act 1998: Scotland**Asked by: Martyn Day**

To ask the Secretary of State for Justice, what plans the Government has to seek legislative consent from the Scottish Parliament for the proposed repeal of the Human Rights Act 1998.

Answering member: Dominic Raab

This Government was elected with a clear mandate to replace the Human Rights Act with a Bill of Rights. We will bring forward proposals for consultation in due course, and will fully engage with the Devolved Administrations.

It would be premature to comment on the application of the Sewell Convention until the package of legislation is settled.

26 Jan 2016 | Written questions | [PQ 903258](#)

Human Rights Act 1998: Scotland**Asked by: Crawley, Angela**

To ask the Secretary of State for Justice, what plans the Government has to seek legislative consent from the Scottish Parliament for the proposed repeal of the Human Rights Act 1998.

Answering member: Dominic Raab

This Government was elected with a clear mandate to replace the Human Rights Act with a Bill of Rights. We will bring forward proposals for consultation in due course, and will fully engage with the Devolved Administrations.

It would be premature to comment on the application of the Sewell Convention until the package of legislation is settled.

26 Jan 2016 | Written questions | [PQ 903254](#)

Bill of Rights: Scotland**Asked by Richard Arkless**

To ask the Secretary of State for Justice, whether he plans for the proposed British Bill of Rights to apply to Scotland.

Answered by: Dominic Raab

The government was elected with a mandate to reform the UK's human rights framework. We are considering the implications of a Bill of Rights on devolution as we develop our proposals. We will, of course, fully engage with the devolved administrations.

18 Dec 2015 | Written questions | [PQ 19673](#)

Human Rights Act 1998

Asked by: Richard Arkless

As part of developing these proposals, the question of whether the new British Bill of Rights will have legal application in Scotland is absolutely crucial to Scotland's constitutional settlement. Can the Attorney General give me an indication of whether it will apply in Scotland, and if it will, does he agree that a legislative consent motion would be required from the Scottish Parliament to give it that legal application?

Answered by: The Attorney General

The hon. Gentleman and I have already discussed the question of consultation with the Scottish authorities, and I am fully in favour—as are colleagues in the Ministry of Justice—of ensuring that the devolved Administrations are fully engaged in

that consultation process. As to whether a legislative consent motion would be required, that would depend entirely on the nature of the proposals. We have not yet seen them, and it is important that we should consider them properly when we do.

26 Nov 2015 | Oral questions - Supplementary | [HC Deb 602 c1473](#)

Human Rights Act

Asked by: Callum McCaig

I thank the Minister for his condolences after the tragic events in my constituency. The thoughts of everyone in the Chamber are with the families affected.

As the Minister will know, human rights are not reserved under schedule 5 of the Scotland Act 1998, so the Human Rights Act cannot be repealed and replaced with a Bill of Rights without the legislative consent of the Scottish Parliament—the First Minister of Scotland has said it is inconceivable that that would pass through Holyrood. With that in mind, why are the Government wasting money pursuing something that they cannot do?

Answered by: Mr Raab

I thank the hon. Gentleman for his question but I am afraid that is not quite right. Revising the Human Rights Act can be done only by the UK Government. The implementation of human rights in a wide range of areas is already devolved to Scotland, and I urge the hon. Gentleman to focus his efforts in that area.

03 Nov 2015 | Oral questions - 1st Supplementary | [HC Deb 601 c855](#)

Bill of Rights

Asked by: Joanna Cherry

At Justice questions on 23 June, the Secretary of State said that human rights are a reserved matter under the devolution settlement. At a debate in Westminster Hall on 30 June, I urged the UK Government to reconsider that position, having regard to the precise terms of the Scotland Act 1998. Will the Minister confirm that his advisers have had the opportunity to study schedule 5 to the Act over the recess? Will he now accept that human rights are not listed there as a reserved matter and that if this Government therefore want to repeal the Human Rights Act and replace it with a British Bill of Rights they will be required first to consult the Scottish Parliament according to the Sewel convention?

Answered by: Mr Raab

I thank the hon. Lady for her question. There will be full consultation and we are aware of the concerns that she and her party have raised. Revising the Human Rights Act can be done only by the UK Government, but at the same time the implementation of human rights issues are already substantially devolved to Scotland. Let me give one example. The Scottish Government have been criticised for failing to hold mandatory fatal accident inquiries when someone dies in a mental health institution. That is just one illustration, but the SNP needs to stop promoting the fiction that human rights in Scotland totally depend on or are threatened by Westminster and to focus more on living up to its own responsibilities.

08 Sep 2015 | Oral questions - Supplementary | [HC Deb 599 c207](#)

3.2 Joint Committee on Human Rights

[Joint Committee on Human Rights](#)

The Joint Committee on Human Rights consists of twelve members, appointed from both the House of Commons and the House of Lords, to examine matters relating to human rights within the United Kingdom. (This excludes consideration of individual cases.)

[Correspondence: Letter to Michael Gove \(PDF 77.8 KB\)](#)

The Joint Committee on Human Rights writes to Secretary of State for Justice Michael Gove, seeking assurance that the consultation period for the Government's proposals to repeal the Human Rights Act and replace it with a revised Bill of Rights will not overlap with the dissolution of the Scottish Parliament and pre-election purdah period for the Scottish Government.

[Letter from Rt Hon Michael Gove MP, Lord Chancellor and Secretary of State for Justice, 11 February 2016 \(PDF 477.1 KB\)](#) Published 24 February 2016 Response to the Chair's letter regarding purdah and consultation on a UK Bill of Rights

[Letter to Rosemary Butler AM, Presiding Officer, National Assembly for Wales, 27 January 2016 \(PDF 528.7 KB\)](#) Published 04 February 2016

Letter concerning the implications of purdah on devolved parliaments when considering the forthcoming consultation on a Bill of Rights

[Letter from Michael McNamara, Acting Chairman, Committee on Legal Affairs and Human Rights, Council of Europe, 8 December 2015 \(PDF 242.9 KB\)](#) Published 04 February 2016

[Letter to Mitchell McLaughlin MLA, Speaker of the Northern Ireland Assembly, 27 January 2016 \(PDF 536.5 KB\)](#) Published 03 February 2016

Letter concerning the implications of purdah on devolved parliaments when considering the forthcoming consultation on a Bill of Rights

[Letter to Michael Gove on Scotland's involvement on Bill of Rights \(PDF\)](#) Published 20 January 2016

4. Holyrood

[Human Rights Inquiry](#)

The European and External Relations Committee issued a call for written evidence on the potential implications for Scotland of the repeal of the Human Rights Act and its replacement with a British Bill of Rights. The written evidence submitted in response to this call for evidence will inform further inquiry work.

[Read the call for evidence](#)

[Read the responses received by the Committee](#)

[Holyrood to appoint new Chair of Scottish Human Rights Commission](#)

29 January 2016

[Scotland's National Action Plan for Human Rights: 2013-2017](#)

[Scotland's National Action Plan for Human Rights \(SNAP website\)](#)

SNAP - Scotland's National Action Plan for Human Rights - was launched on 10 December 2013, marking International Human Rights Day.

[Commission on a Bill of Rights](#)

The Commission on a Bill of Rights was set up in March 2011 by the UK Government. As part of its terms of reference, the Commission was required to consult with devolved administrations.

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