



Law Society
of Scotland



Briefing

Scottish Government Debate: Reaffirming Scotland's Support for Human Rights Defenders

9 December 2019



Introduction

The Law Society of Scotland is the professional body for over 12,000 Scottish solicitors. With our overarching objective of leading legal excellence, we strive to excel and to be a world-class professional body, understanding and serving the needs of our members and the public. We set and uphold standards to ensure the provision of excellent legal services and ensure the public can have confidence in Scotland's solicitor profession.

We have a statutory duty to work in the public interest, a duty which we are strongly committed to achieving through our work to promote a strong, varied and effective solicitor profession working in the interests of the public and protecting and promoting the rule of law. We seek to influence the creation of a fairer and more just society through our active engagement with the Scottish and United Kingdom Governments, Parliaments, wider stakeholders and our membership.

We warmly welcome the Government-led debate to be held in the Scottish Parliament on International Human Rights Day on 10 December reaffirming Scotland's support for human rights defenders; and we take the opportunity to draw attention to the important contribution the international legal community makes to this work.

Defending human rights at home

As the regulatory and representative body of the solicitor profession in Scotland we are proud to have as our members many such defenders who work tirelessly to uphold the rights of the people of Scotland, as well as people who come to Scotland to escape human rights violations in their own country.

The legal policy team at the Society has also been involved in a number of important pieces of work to advance Scotland's human rights record this year. These include responding to Scottish and UK Government consultations and inquiries, and participating in Scottish Parliament evidence sessions on issues such as:

- [prisoner voting](#)
- [increasing protection from Female Genital Mutilation](#)
- [consolidation of Scottish hate crime legislation](#)
- [the nature, extent and prosecution of elder abuse](#)
- [adults with incapacity reform](#)
- [the physical punishment of children](#)
- [Incorporation of the United Nations Convention on the Rights of the Child \(UNCRC\) into domestic law in Scotland](#)
- [Indefinite detention under the Immigration Act](#)

Representatives from the Society sit on the Scottish Government's UNCRRC incorporation working group, as well as the National Taskforce for Human Rights Leadership.

We commend the Scottish Government and the Scottish Parliament for the important work it does to advance these issues.

In Scotland there is general acceptance of the need for separation of powers between the executive, legislative and judicial branches and acknowledgement of the importance of the rule of law. While we at the Law Society aim always to work constructively with government and parliament on matters of mutual interest and we value this engagement enormously, we do so as an independent body. On the rare occasions where we think powers are at risk of being misused, it is important that we speak out.

Defending human rights internationally

Lawyers around the world play an essential role in protecting the rule of law, ensuring access to justice for fellow citizens, and protecting fundamental rights and freedoms. For the same reason, the legal profession can come under considerable pressure from executive and legislative powers, and in some cases the judiciary in countries where these values are not respected. (It is worth noting, however that [the judiciary](#) can itself be a target for persecution.)

Our membership of international organisations such as the International Bar Association (IBA) and the Council of European Law Societies and Bar Associations (CCBE) reminds us how fortunate we are in Scotland to have political, legal and social institutions that maintain respect for human rights. We must never ignore the challenges and dangers that many of our colleagues worldwide face in the course of discharging their professional duties.

To give just one recent example among many, which was highlighted to members of this Parliament by MSP for Cunninghame South, Ruth Maguire in March this year, Iranian women's rights lawyer and campaigner Nasrin Sotoudeh was sentenced to 38 years in prison and 148 lashes after she advocated on behalf of women who protested the compulsory hijab. Despite global condemnation of her arrest she has not yet been released.

Nasrin was one of four imprisoned Iranian lawyers who received the CCBE's [Human Rights Award](#) this year *in absentia*.

As well as advocate on behalf of lawyers and judges who have been persecuted for trying to promote these fundamental rights (including Nasrin), the International Bar Association's Human Rights Institute (IBAHRI) carries out extensive work to advance causes such as the abolition of the death penalty, human rights and sexual orientation and freedom of expression.

As we read recent reports of a homosexual couple in Zambia receiving a 15 year prison sentence from the Lusaka High Court for conducting a consensual relationship, we would highlight the fact that that the IBAHRI held a seminar in conjunction with the University of Lusaka in September this year for the new generation of lawyers in Zambia on the rule of law and human rights, featuring prominent Zambian legal professionals who advocate for these rights.

While there is still a long way to go achieve tolerance and respect for human rights on a global scale, looking at the work of these organisations, as well as that of the individual law societies and bar associations who form part of their membership, the legal profession has an important role, not just as front-line defenders of human rights but as promoters of these fundamental rights and freedoms.

We look forward to engaging with the Scottish Government, the Scottish Parliament and civic society bodies on the development of legislation to enhance the protection of the human rights of every member of Scottish society as envisaged by the National Taskforce, the purpose of which is to ensure Scotland is a world leader in putting human rights into practice.

For further information, please contact:

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