

Submission from Ken MacLennan

1. Thank you for the opportunity to provide evidence for your inquiry on Human Rights and the Scottish Parliament. I am writing to you as someone who has been actively involved in issues to do with race equality and human rights for the past eighteen years and who has during that time come across racial discrimination and other violations of human rights in many aspects of Scottish life. I have also had first-hand experience of it and in particular through my association with the Scottish Gypsy Traveller community.
2. I would like to refer you to my submission dated 2 July 2015 to the Equal Opportunities Committee and which appears in the 1st Report, 2016 (Session 4): Removing Barriers: Race, ethnicity and employment.
3. The Committee however might first consider what the obstacles are which prevents and or deters us from adopting a human rights approach to the way that we work here in Scotland. There is I believe a strong business case for adopting such an approach as well as a professional one. However how many public bodies in Scotland have adopted such an approach and have put it in to practice? In times of austerity would it not have been prudent to do so?
4. The SHRC's National Action Plan on Human Rights which promotes such an approach has sadly not delivered! Why not? In fact how many public bodies have even bothered to give it serious consideration, assuming that they had heard about it? At a major event held by the SHRC at the end of last year, for example, I believe that only two local authorities were represented.
5. Leadership from the government has been identified as a failing in the past by the EHRC but I would like to put forward one reason why human rights have not been fully embraced by our public bodies and the third sector. Article 14 is relevant in this case.
6. We know that in Scotland there is evidence to support the argument that institutional racism exists. The term institutional racism (or structural or systemic racism) became well known following the death of Stephen Lawrence in London on the evening of 22 April 1993. Sir William Macpherson used the term as a description of: *“the collective failure of an organisation to provide an appropriate and professional service to people because of their colour, culture or ethnic origin”, which “can be seen or detected in processes, attitudes and behaviour which amount to discrimination through unwitting prejudice, ignorance, thoughtlessness, and racist stereotyping which disadvantages minority ethnic people.”*
7. The treatment of our Gypsy Traveller community here in Scotland as highlighted in research and numerous Inquiries by the Equal Opportunities Committee etc would support the case that institutional racism exists throughout our public bodies. Public bodies would undoubtedly deny this (and have done so) so how about them all having to provide the hard evidence that this is not happening either through an external and independent audit or

Inquiry. How else could "acceptable racism", in the case of Gypsy Travellers, exist in 2018?

8. Institutional racism has to be addressed (as well as the denial of it) otherwise attitudes towards racism and human rights will be difficult to change. Adopting a human rights framework as a legal requirement on public bodies might be a step in the right direction but only if there are robust mechanisms in place for non compliance. At present current mechanisms for non compliance is not fit for purpose and access to justice is impossible for some. A great opportunity was provided when the Race Relations (Amendment) Act 2000 came in to force but government and most public bodies failed to embrace it too.
9. The Equal Opportunities Committee's first of many Inquiries into Gypsy Travellers and Public Services reported in 2001. In 2003 The Council of Europe Advisory Committee on the Framework Convention for the Protection of National Minorities (ACFC) concluded: "Notwithstanding the increased awareness of the accommodation needs of Gypsies and Travellers in Scotland and Northern Ireland, progress improving the situation on the ground has been slow. In Scotland, the number of pitches for Gypsy/Traveller caravans has fallen in spite of Scottish Executive guidelines to local authorities regarding site provision. The absence of statutory requirements concerning the allocation of sites, combined with hostility to such sites among the local population, continues to affect provision ... The Scottish Executive should give serious consideration to the possibility of introducing statutory obligations to address the accommodation needs of Gypsies/Travellers"
10. In 2008 these were some of the identified human rights violations experienced by Scotland's Gypsy Travellers, some on a daily basis: "...Article 3: The right not to be tortured or inhumanly or degradingly treated or punished. This includes living in substandard or squalid conditions such as those involving 'slopping out' or living on the roadside with no basic service provision. Many Scottish Gypsy Travellers continue to endure living in such conditions. These were highlighted by the Framework Convention and denied by the Scottish Government.
11. Article 6(1): The right to access the legal aid system and therefore to a fair trial: Gypsy Travellers cannot generally secure the services of solicitors and only Scottish trained solicitors can make an application to the Scottish Legal Aid Board; hence it is difficult to access the legal system and get a fair trial.
12. Article 8: The right to private and family life: This includes not being allowed to camp with more than 6 vehicles which may include 3 cars and 3 caravans – which are insufficient to meet the needs of many Scottish Gypsy Traveller families. It also includes being able to choose where you want to stay rather than being compelled to stay on set sites in one town/village in a region or forced to take a council house due to a shortage of pitches for caravans.

13. Article 13: The right to an effective remedy: This is virtually impossible if it is not possible to secure a lawyer's services or access legal aid. There is no legal aid available to complainants to employment tribunals.
14. Article 14: Prohibition of discrimination: The Scottish Parliament Equal Opportunities Committee Inquiry into Gypsy Travellers and the Public Sector in 2001 found that there was discrimination – both direct and indirect – in all sectors of public life against this particular group. (subsequent inquiries have found the same)
15. Article 2 of Protocol No. 4: Freedom of movement: The Management of Unauthorised Encampments uses all legislation at its disposal to prevent and interfere with such freedom, whilst the lack of transit sites does not allow for movement as part of a nomadic culture.
16. It should also be noted that the U.K. Government – and by extension, the devolved Scottish Government – are signatories to the U.N. Declaration of Human Rights, including the *International Covenant on Economic, Social and Cultural Rights* and the *Covenant on Civil and Political Rights* and the *International Covenant on the Elimination of All forms of Discrimination*.
17. In 2018 which if any of the violations of human rights above have been addressed?
18. Participation and engagement is crucial and in the case of the Gypsy Traveller community it has participated and engaged. However Gypsy Travellers' rights continue to be violated and their lives remain unchanged two decades later. This is unacceptable.
19. Empowering people to make them more aware of their rights is crucial but when people are unable to access justice then this is unacceptable.
20. A strong human rights culture cannot thrive in a country when its institutions are structured in such a way that progress is blocked and powers are abused.
21. Our Parliament must lead by example and adopt a human rights framework and put it in to practice. It must be best practice.
22. A Bill requiring all public bodies to adopt such an approach requires to be considered. The "softly softly" approach of the last two decades by the regulatory bodies to implementation of equality and human rights legislation requires to be reconsidered. People deserve better!
23. The Committee should seek an audit of the current situation with regards to human rights in Scotland and/or carry out an investigation in to what can only be the collective failure of our public bodies, including our regulatory bodies, to provide appropriate and professional services to all our people.