



OFFICIAL REPORT
AITHISG OIFIGEIL

Equalities and Human Rights Committee

Thursday 19 April 2018

Session 5



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Pàrlamaid na h-Alba

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**EQUALITIES AND HUMAN RIGHTS COMMITTEE
11th Meeting 2018, Session 5**

CONVENER

*Christina McKelvie (Hamilton, Larkhall and Stonehouse) (SNP)

DEPUTY CONVENER

*Alex Cole-Hamilton (Edinburgh Western) (LD)

COMMITTEE MEMBERS

- *Mary Fee (West Scotland) (Lab)
- Jamie Greene (West Scotland) (Con)
- *Gail Ross (Caithness, Sutherland and Ross) (SNP)
- *David Torrance (Kirkcaldy) (SNP)
- *Annie Wells (Glasgow) (Con)

*attended

THE FOLLOWING ALSO PARTICIPATED:

- Marie Anderson (Northern Ireland Ombudsman)
- Michael Clancy (Law Society of Scotland)
- Delia Henry (Age Scotland)
- Nick Hobbs (Children and Young People's Commissioner Scotland)
- Anthony Horan (Bishops Conference of Scotland)
- Gordon MacRae (Humanist Society Scotland)
- Helen Martin (Scottish Trades Union Congress)
- Lucy Mulvagh (Health and Social Care Alliance Scotland)
- Graham O'Neill (Scottish Refugee Council)
- Judith Robertson (Scottish Human Rights Commission)
- Bill Scott (Inclusion Scotland)
- Ally Thomson (Dignity in Dying)
- Nora Uhrig (Equality and Human Rights Commission)

CLERK TO THE COMMITTEE

Claire Menzies

LOCATION

The Robert Burns Room (CR1)

Scottish Parliament

Equalities and Human Rights Committee

Thursday 19 April 2018

[The Convener opened the meeting at 09:02]

Human Rights and the Scottish Parliament

The Convener (Christina McKelvie): Good morning and welcome to the 11th meeting in 2018 of the Equalities and Human Rights Committee. I make the usual request that mobile devices be switched to aeroplane mode and be off the table.

I hope that David Torrance will be here in a few minutes. Jamie Greene is running a bit late but should also be with us. Our committee adviser, Murray Hunt, is not with us in the room but is listening online to keep abreast of the proceedings.

The first agenda item is a continuation of our inquiry into human rights and the Scottish Parliament. We have two panels of witnesses this morning: a small but beautiful panel and then, later, a much larger panel of witnesses, who will probably be equally as beautiful.

On our first panel, we have Nick Hobbs, head of advice and investigations for the Children and Young People's Commissioner Scotland; Nora Uhrig, senior associate for programmes in Scotland at the Equality and Human Rights Commission; and Judith Robertson, chair of the Scottish Human Rights Commission. We will be joined by Marie Anderson, who is the Northern Ireland Public Services Ombudsman, but she is running a wee bit late. It seems that the Edinburgh traffic is against everyone this morning.

We are grateful to the witnesses for coming. I know that they are all keen to take part in the inquiry and we are keen to hear from them. We are grateful for the written evidence that we have received and we are keen to interrogate some of the avenues in it this morning. We have a tight timescale. We have about 55 minutes with the witnesses, then we have a second panel and then the committee has some other work to do.

We will go straight to questions with a general opening question that will give the witnesses a chance to say a wee bit about themselves, their organisations and the reasons why the inquiry is important.

Gail Ross (Caithness, Sutherland and Ross) (SNP): Good morning. When I go around my

constituency and ask my constituents what human rights mean to them, I find that many of them think that human rights are something that happens to other people. How do we embed human rights in society? I noticed that, in the submissions, there were quite a few recommendations about how we start, especially with younger children and in the school years. How do we get out the message that human rights are for everyone?

Judith Robertson (Scottish Human Rights Commission): Thank you for the question. That is the work of the inquiry, to be honest. In this specific context, we are looking at the role of the Parliament in exactly that process, and I think that many of the questions of the inquiry address exactly that point.

For me, the question in this context is one of leadership. It is about the leadership that comes from the Parliament and the Government in Scotland in expressing and using the language of human rights and supporting people to understand that human rights are universal: we all have all the rights; they are not something for a particular group of individuals.

When it comes to having conversations about human rights, the more that we, as leaders in our societies, can bring an express understanding of the human rights framework and what it means and brings for people, the more that we will be able to enable our citizens—our constituents and the population at large—to understand that human rights are universal.

We have made suggestions about the leadership that this committee can provide. The Parliament's role is significant. It already plays a role, and part of the inquiry process is about strengthening that role. Internationally, there is increasing recognition of the role of Parliaments in bringing the issue to people's attention. The Council of Europe, the United Nations and the Commonwealth all say that Parliaments have a lot of work to do in that regard and can play that role.

There is the potential to incorporate human rights into the thinking and analysis that go into all the processes that are intrinsic to the Parliament's day-to-day running, whether we are talking about scrutiny of legislation, bringing the treaty body processes from the UN much more into our public narrative and consciousness and supporting civil society organisations to do that, or scrutiny of the budget from a human rights perspective.

There is not a single answer to your question. From the perspective of the inquiry, there is a range of initiatives that the Parliament and the committee could undertake. I assume that in the course of the evidence session we will be able to unpack a few of them in more detail.

Nick Hobbs (Children and Young People's Commissioner Scotland): A key objective in the commissioner's revised strategic plan, which we laid before the Parliament in March with the help of our amazing new advisers—I think that Gail Ross was there—is to create a culture of children's human rights in Scotland. Therefore, we very much welcome the committee's inquiry and the recognition of the important role that the Scottish Parliament can play as a human rights guarantor, which I think that everyone on the panel and round the table shares.

In working towards that goal, it is important to recognise, as the United Nations Convention on the Rights of the Child does, that children do not have the same economic or political power as adults have. That means that the Parliament has to pay particular attention to their rights and to ensuring that they are fully and meaningfully involved in decision making on all matters that affect them.

The UN convention makes it clear that, when we consider matters that affect the child, we have to understand that in its broadest sense. That means that all the Parliament's committees will be considering issues that engage children's human rights. Therefore, there is a great opportunity for the committee to become a centre of excellence on human rights in the Scottish Parliament. I agree with a great deal of what Judith Robertson said in that regard.

We have to improve the scope for children's participation in processes across the range of the Parliament's activities and committees, in line with international standards and best practice, so that we mainstream children's rights considerations throughout all aspects of the Parliament's work, including legislative scrutiny and accountability.

On how we make human rights meaningful, it is important to recognise that children and young people are living with the impact of human rights issues on a day-to-day basis. That came across strongly in the consultation that we conducted on our strategic plan, and it comes across strongly in every engagement and discussion that we have with children and young people, whether that is in the context of education, poverty or mental health.

Such issues really impact on children's lives daily. What is sometimes missing, for children and young people, is an understanding of where the decisions that affect those issues are made, how they are made, how to change them and—perhaps most important—the fact that decisions can be challenged and changed.

Parliament has a really important role in education and outreach, through working directly with children and young people and through the processes by which decisions are made and by

which human rights are given life in people's day-to-day existence. We need to make that really accessible to children and young people.

Nora Uhrig (Equality and Human Rights Commission): I support what Judith Robertson and Nick Hobbs said. It is vital that members use the language of human rights and that they get other committees to do so, too, as there must be collaboration. We must take an overall approach to human rights and try specifically to include people with lived experience and organisations that work closely with them. For example, we could focus specifically on marginalised groups. With that, equalities are of huge importance.

We should, of course, look at the nine protected characteristics that are set out in the Equality Act 2010, but we could go beyond that and look at groups that are perhaps not included, such as asylum seekers. I know that the committee has done some work in that area, and what Nick Hobbs and Judith Robertson said plays into that. We should talk to those groups and include them. MSPs should ensure that, in any activity that they do—it does not need to be something that is connected to the committee—they use the language of human rights and include an analysis of human rights and equalities throughout their work. Once they do that, and a process is established for education on human rights to reach more people across Scotland, I hope that the message will spread out into society as a whole.

The Convener: Thank you. I welcome Marie Anderson to the committee—we are glad that you could make it. I will let Gail Ross repeat her question, so that you understand where she is coming from.

Gail Ross: Good morning. When I ask my constituents what human rights mean, they say that human rights mean something for someone else. How do we embed human rights in society? How do we get people, particularly school children, to understand that human rights are universal and for everyone, as Judith Robertson said?

I want to pick up the point that Nick Hobbs made about the group with the young advisers. I attended that meeting, and I put on record my thanks for their attendance and all the work that they have done—they were absolutely fantastic.

Marie Anderson (Northern Ireland Ombudsman): Good morning, convener, deputy convener and members of the committee. I apologise for being late—it is because some passengers did not board my plane.

I suggest to the committee not a novel approach but an innovative approach to embedding human rights, which is perhaps why I was invited to speak. In my office in Northern Ireland, we have a

human rights-based approach to investigations, which embeds human rights principles and values in the work of the ombudsman. What do I do? I investigate complaints of maladministration about all public services in Northern Ireland, which includes health and social care. I also have an extended remit in education, so children and young people and their rights are very much at the forefront of my mind.

Traditionally, the United Kingdom ombudsman model has not included a human rights mandate. I do not have an explicit human rights mandate. Nevertheless, I have developed with the Northern Ireland Human Rights Commission a human rights-based approach to my work, which is investigation. What is a human rights-based approach? It is about taking the principles of participation, non-discrimination, equality, empowerment and accountability and making those real. In investigating complaints about public services, we apply human rights.

What does that mean in real terms? It means more than simply using human rights language when I report on a prisoner who has complained about his lack of privacy because he has had bowel cancer and has a colostomy bag but has to share with other prisoners. It is much more than using the language of human rights. I test public authorities in Northern Ireland and ask them, "Have you had regard to the human rights of the individual who has complained to me?"

09:15

Why is that relevant to the work of the Parliament and, in particular, the work of committees? I presume that, as is the case in the Northern Ireland Assembly, all committees in the Scottish Parliament have a number of roles, including making legislation and conducting scrutiny. As you carry out scrutiny, and in your inquiry mode, you can adopt a human rights-based approach. You can ensure that there is participation and that, when you consult on an issue, sufficient information is provided and that it is understandable.

Let us take the example of children and young people. I am pretty sure that my 17-year-old can tell me when he has been treated unfairly. Does he know about the Human Rights Act 1998? No, he does not but, fundamentally, children and young people have a sense of fairness and human rights. However, education is key. If we do not educate schoolchildren through programmes in primary and secondary schools that explain in plain and simple terms what the Human Rights Act 1998 is, they will never be able to participate in decision making or consultations, because they will not have the necessary understanding. That is just one element of what is required.

I urge the committee to think about a human rights-based approach that focuses on the principles of participation and non-discrimination rather than the jurisprudence of the European court. How can we empower a young person to exercise their rights if they do not know about the rights that they have? Information, empowerment and accountability are required. Fundamentally, my job is to hold public service providers to account. In doing that, I ask them where their human rights policies and procedures are. I ask questions such as how the case of a 16-year-old who wanted to go to college but whose parents did not want her to go was addressed and how that young person was allowed to participate in the decision about her education and her future. In your scrutiny role, by taking a human rights-based approach, you can embed human rights.

Gail Ross: Super—thank you all for your answers.

The young advisers who have been mentioned are extremely switched on, but they are teenagers. In embedding human rights in the curriculum, how young should we start? How do we simplify the issue for children of primary school age? How do we introduce it?

Nick Hobbs: As members will be aware, the United Nations International Children's Fund has a very good rights-respecting schools programme, which often involves introducing rights issues to children of primary age. As Marie Anderson said, children understand issues of fairness and equality on quite an instinctive level, so we are not introducing alien concepts, but we need to think about the language that we use and the examples that we choose when we try to explain such ideas.

As you would expect, our office spends a lot of time thinking about how we communicate things such as the United Nations Convention on the Rights of the Child to children and young people. We often talk about the rights that are contained in such international conventions by framing them as a series of promises that are made by Governments when they sign up to them. We talk about the commissioner's role as being to make sure that those promises to children and young people are kept by the Government. The accountability role of the Parliament could be framed in a similar way, as being to hold Government to account for the promises that are made at an international level to children and young people. I think that children understand that quite readily.

Mary Fee (West Scotland) (Lab): Good morning, panel. My question follows on quite nicely from the discussion that we have just had. It centres on children. Without full incorporation of the UN Convention on the Rights of the Child, can we ensure full protection for children?

Marie Anderson: I do not believe that we can. I believe that it is necessary to have regard to not only the European convention on human rights but the international treaties. To explain why I do, I will cite a case that I investigated.

It was a case of a 17-year-old with a history of alcohol and drug abuse. He was just short of his 18th birthday when he was admitted to hospital, following a suicide attempt. He was not living at home, but his parents wanted to be involved in his care and in the decision to discharge from an accident and emergency unit where he had been admitted because of his suicide attempt. In that case, I could not address the balance of rights without looking at the international convention on the rights of the child and the UN committee's report and advice. There was a balance of rights between the parents' rights to be involved in the decision to discharge him—they feared that he would abuse drugs or attempt suicide again—and his rights as a 17-year-old, with the issue of competency also being relevant. However, the hospital trust was adamant that the young person's rights took precedence in the circumstances, so it discharged him. Sadly, he died three days later, having committed suicide.

The parents have obviously found it very difficult to deal with that. However, when I was dealing with that investigation and deciding whose rights took precedence, I did not look to the European convention on human rights but to the international convention on the rights of the child and the UN committee's advice on that. My finding was that the voice of the young person is important and sometimes supreme, and I made the decision that there was no maladministration in the trust's discharge in that case.

Mary Fee: That is very helpful.

Nick Hobbs: I think that the committee will be wholly unsurprised to hear me say that incorporation of the convention on the rights of the child is long overdue. We are very pleased that the Government has committed to give that some further thought and to look at options. However, we need to make progress on it. What are particularly important are redress and remedy, and making the convention and those rights justiciable so that children and young people could go to court if they need to do so. Culture and practice is also important, because legislation on its own is not a solution or a silver bullet. It is critical that the CRC is incorporated in domestic legislation, but there would still be a great deal of work to follow on from that around embedding a rights-respecting culture and a culture that respects human rights in practice—that is also critical.

Mary Fee: It will not surprise committee members to hear that my view is that we need to incorporate those rights fully. With regard to

looking at options, we cannot take half measures or cherry pick what we do; if we do not fully incorporate, we would be as well doing nothing. We will not help anyone by going only so far and doing nothing else. There cannot be a sliding scale that involves doing something now and thinking about doing something else in five years' time. Do you agree?

Nick Hobbs: As I said, you will get no disagreement from me about the importance of incorporating the CRC as quickly as possible.

Judith Robertson: I completely agree with that point. Ultimately, the gold standard for any international treaty process is for all the recommendations to be fully incorporated, for all the reasons that have been described around accountability, the mechanisms of redress and ensuring that, across public authorities and government, the state is held to account with regard to the standards of the treaty that it has signed up to. The point is that we have already agreed to that process and, because of our system of law making and governance in the United Kingdom, we have to incorporate the convention for it to be implemented in our law.

My only caveat to what has been said is that I do not think that no progress can be made without full incorporation. I would never step back from advocating full incorporation, but I recognise that there can be steps on the way to that. I would not say that we should not take those steps and do nothing other than have full incorporation; I would always say that we should take the steps.

We would always advocate for full incorporation but, as Nick Hobbs said, the law is a framework and a means of accountability. It is therefore important, but, without effective implementation right through the analysis, mindset and ways of working of public authorities in Scotland, the law—while not becoming meaningless—fails to have a real impact on people's lives. As Eleanor Roosevelt said, human rights begin

"In small places, close to home".

It is in the rooms where individual decisions are made about people that people's rights are either realised or not realised. Those decisions about whether a Roma child in our culture today will be able to access education, a doctor or a decent house are rights decisions that apply across our society, not only to children. Children are our most vulnerable citizens, but we have many other vulnerable citizens for whom the incorporation of the whole of the rights framework—economic, social and cultural rights, as well as civil and political rights—is a really important step.

Mary Fee: Do you agree that incorporation helps us in our scrutiny role?

Judith Robertson: Yes, absolutely. Incorporation is really important—it is the gold standard. However, it is also core. It legally binds you to incorporate the knowledge and wisdom of the whole of the international standards. For example, we have been arguing for and working towards the incorporation of the right to social security in the social security legislation that has been going through Parliament. The purpose of doing that is that it would legally bind Scottish Government ministers to consider and take into account the right to social security when they are making decisions about all the processes of regulation. That right has not been incorporated in the legislation, therefore it is not incumbent on ministers to do that, and there is no legal recourse if they fail to do that now or in the future. That is a real gap in the accountability mechanism in the legislation, and that means that the right to social security is at risk of not being fully realised, even though that is the stated policy objective of the legislation. There is a hole with regard to accountability and the right to social security in that process.

We absolutely advocate for full incorporation, while recognising that it takes much more than just the law to ensure that people's rights are respected.

Nora Uhrig: The EHRC is supportive of incorporation in principle. There are a lot of ways of doing that, and I would like to reiterate something that Judith Robertson just said, which is that what is key is how the law is implemented. There must be mechanisms that hold not only the Scottish Government but public authorities to account, and there must be a monitoring process so that implementation is not down to one public body and that the impact can be measured and people on the ground can see a difference.

Alex Cole-Hamilton (Edinburgh Western) (LD): My questions follow on from Mary Fee's questions on incorporation. This Parliament and the current Administration have been on a journey in respect of the United Nations Convention on the Rights of the Child. I think that the first time that the UNCRC found its way into the Scottish statute books was in the Children and Young People (Scotland) Act 2014, which placed on ministers a duty to raise awareness of it. That was watered down from an earlier draft, which gave ministers a duty to have due regard to it. That is an important distinction, and I will give you a granular example of the problem that we have in that regard—there will be a question, convener, although there will be a long introduction to it.

This committee is dealing with the Age of Criminal Responsibility (Scotland) Bill, which will rectify an area in which we have been out of step with the UNCRC. Within that, however, there is

provision for children to be taken to a "place of safety", by which the legislation means a police station, in a situation in which they are exhibiting offending behaviour. That is absolutely incompatible with article 37 of the UNCRC.

If ministers already had the duty to have due regard, we would not have that draft legislation suggesting that we should house children in a police station for 24 hours, because that is not compatible with the convention. If we are to make rights real in the case of children, as we are discussing just now, do we need to have a structure or a body within Government that is checking all the silos of Government to see that we are not making spectacular errors that jar with our commitments to the convention?

09:30

Judith Robertson: Nick Hobbs can answer your specific points, but indeed we do, and right across all convention rights, not just the CRC. At the moment, the competence within Government would rest particularly around the rights enshrined in the Human Rights Act 1998 and the European convention on human rights. Those are restricted rights, in the sense that they are restricted to civil and political rights. They do not cover rights in the UN Convention on the Rights of the Child or other rights in the international human rights framework. It is partial, and that creates a problem. It is not that the competence is not there, but it is not as rich as it would be under the European convention, so that capacity within Government to fully interrogate any process, policy or legislation from the perspective of the treaty is limited at the moment. I would say that it needs to be bolstered to ensure effective delivery of the recommendations.

Nick Hobbs: However you choose to do that, the responsibility to ensure that legislation is rights compliant when it is drafted rests with the whole of the Scottish Government. I would agree that building up capacity and resource, and encouraging those issues to be considered much more carefully, will be absolutely critical, but I would not want to go to a place where we had too much of a silo being developed. For any bill team anywhere in Government that is drafting legislation, understanding the impacts on children's rights and understanding the UN Convention on the Rights of the Child and other international instruments where children's rights are held will be absolutely critical. You can access resource and expertise from elsewhere, but that consideration needs to be mainstreamed right through Government.

The other point is that it is also clearly the role of this Parliament to scrutinise legislation robustly, to look at the compatibility of legislation with UNCRC

and other international instruments with those provisions, and to make use of the powers and the authority that committees have to hold Government to account against the provisions of international instruments. I am all for building in that kind of consideration much more robustly at an earlier stage, but there is also a powerful role that the Scottish Parliament and its committees can play in ensuring that those issues are properly reflected in bills such as the Age of Criminal Responsibility (Scotland) Bill, and that children's rights are given proper consideration. One way of doing that might be to look at the children's rights and wellbeing impact assessments that are increasingly being done to accompany legislation, and for the committees to dig into them and scrutinise them much more closely and robustly, to interrogate the work that has been done on considering the impact of a piece of legislation on children's rights, what has been considered at drafting stage, and what challenges need to go back to the Government in terms of accountability and its responsibilities in respect of international obligations.

Judith Robertson: To reinforce that point, one of the reasons we are so keen to engage in the inquiry is to do with the parliamentary role. If Parliament brings human rights front and centre to its scrutiny processes, that will impact on all the policy development processes, way before anything gets to Parliament. If the policy makers know that that is going to be one of the lenses through which the Parliament looks at legislation, they will have to do that in advance. It needs to be a process that works up front as well as at the end of the line. We do not want it to come to the stage where the Parliament is having to do it at the end of the day. It will affect the whole process right through from policy development to the end point.

All of that has to start somewhere, and the Parliament is a really important actor in that dynamic.

Alex Cole-Hamilton: Thank you. Convener, I should have drawn attention at the outset to my entry in the register of interests. I was convener of the Scottish Alliance for Children's Rights and worked in the children's sector for 15 years.

My first topic is how we stitch that thread of human rights through all the policy work, not just in the Parliament but in what is generated by the Government. This committee is very good at generating outputs, and one of the outputs that I want to see from this inquiry is a set of recommendations for Parliament and Government. We are coming round to the idea that each committee will need some kind of human rights rapporteur. Does that need to be mirrored in the silos of Government, so that in each bill team, for example, irrespective of the department, interest

or field, there should be someone who has expertise or an understanding of human rights training and our current obligations, whether we have incorporated them or not, to the various international treaties to which we are signatories?

Marie Anderson: Speaking from my background as a lawyer, I believe that capacity building around human rights legal experts is very important. The lawyers who advise the Parliament's committees have to have that expertise, so that there is the capacity to give committees the legal advice that they need in order to scrutinise legislation properly—to ask the right questions and test it properly.

On Alex Cole-Hamilton's comment about creating a new body, I say that ownership has to be spread in a small jurisdiction—Northern Ireland, for instance. We have a children's commissioner, a human rights commissioner and a victims commissioner, and we cannot keep creating new bodies. What you can do, however, is capacity build and get that expertise by joint working with your scrutiny bodies. The example in Northern Ireland is the joint working between my office and the Northern Ireland Human Rights Commission.

I have been in the role of ombudsman for just two years, and as part of my mandate I have established an oversight forum in Northern Ireland, where the human rights commissioner, the ombudsman, the children's commissioner and the equality commissioner can meet in their roles. That is also capacity building. I have own-initiative powers to ensure that, if prison social care is not being dealt with properly by one commission, or there is an issue that needs looking at in relation to children's rights, that is being picked up. Capacity building around using what you have is important, as well as thinking about whether the lawyers are skilled up.

Recently, I had to attend a workshop in the European Commission and I learned that, in the directorates there, the directors general are all lawyers. They are experts in the fields of agriculture, rights and the environment, for example, and I have just discovered that they are quite happy to give opinions that are close to what the European Court of Justice would say on particular issues. That is the sort of capacity building that I would suggest. If there is an issue about interpretation or conflicting rights, use what is there. Go to the experts in Europe and then ensure that you are capacity building locally.

Alex Cole-Hamilton: I have a slightly different line of questioning now. I will start with Marie Anderson, if I may. Thank you for coming all the way over here to see us. You said in your opening remarks that, as ombudsman, you are really there to hold public service delivery bodies to account.

What sanctions can you employ against bodies that you find wanting from a rights perspective?

Marie Anderson: I can merely recommend a change in practice or procedure but, if my recommendation is not followed, I can bring a special report to the Northern Ireland Assembly. I have no binding powers but, in practice, 99.9 per cent of my recommendations are followed—there is a convention that the ombudsman's recommendations are followed.

That said, in the legislation and mandate that I have in Northern Ireland, there are two external mechanisms that can be used by individuals who feel that the governance in a public body has let them down through the decisions that have been made behind closed doors. If I find maladministration, as I call it, which is a failure in good governance, an individual can take my report to a county court in Northern Ireland and get unlimited damages, or they can ask the court to injunct or tell a public body to do, or stop doing, something. That is a very powerful enforcement mechanism.

I can also say to the Attorney General for Northern Ireland, Mr Larkin QC, that I have found systemic maladministration or that maladministrative practice is continuing. For instance, a hospital trust might have failed to have regard to human rights on a particular issue. I can ask the Attorney General to take the issue to the High Court to seek relief. As far as I know, no other ombudsman in the UK or Ireland has those powers. Although I can merely recommend, I have the back-up of the courts and the Attorney General.

Alex Cole-Hamilton: I probably speak for the committee in saying that we hope that we can have that for the Scottish ombudsman as well.

As a corollary of that—other panel members might want to pick up on this—if we incorporated not just the UNCRC but other treaties, would your job be made easier because public service delivery bodies would realise that they might face prosecution or a challenge through the courts when rights were denied, so you might not have to make as many recommendations?

Marie Anderson: We always have a debate about whether that would persuade. It is important to have the law, but it is always a starting point, as the law has to be given life by policies and procedures that embed human rights in public bodies. The law is a starting point, but there must be some clothes on the skeleton of the law, and those are the policies and procedures.

Where I come in as the ombudsman in Northern Ireland is when there is no policy on a particular issue. In one case, I found that the allocation of collateral or extra places to primary schools was

being applied inconsistently. One primary school was getting extra places and another was not. I asked the Department of Education for its policy or basic good administrative process for that, but it had no written policy. I asked what criteria were applied, consistently and fairly, in deciding whether one primary school or another got extra places, but there was no written policy. We need the law, but we also have to give life to it, and public bodies should do that through their policies, procedures and processes, otherwise there will be no back-up when it comes to decision making.

If there are no written policies and procedures, scrutiny is more difficult—it is more difficult to hold someone to account in relation to whether they have met the policy and procedure. Holding to account requires good governance that supports the law.

Judith Robertson: One way that we have been working is through the standards that are developed for public authorities in Scotland by the inspection regimes, such as the prison inspection regime or the Care Inspectorate. We have been working to build human rights into standards so that the conversations that are had when places are inspected use a human rights lens.

I do not want to speak out of turn, but the new prison inspection standards will be worth looking at to see how human rights have been integrated into the process. That could be an example of good practice in which we can see public authorities beginning to engage meaningfully with the material and using it to guide and drive practice change within those different settings. That could be a constructive example of good practice from our perspective.

09:45

Nora Uhrig: In our submission, we mentioned equality and human rights impact assessments. That is one way for public bodies, for example, to ensure that, when they come up with policies, they keep equalities and human rights in mind. In that sense, it is important to state that you cannot really look at one area without looking at the other. When you look at human rights, it is important that you look at equalities, and vice versa.

When you come with processes and implement them, it is important that you do not just create a tick-box exercise. You need to engage people and get them to think about the issues.

The Convener: Mary Fee has a quick supplementary.

Mary Fee: It is a specific question for Marie Anderson. You spoke about your powers and authority as Northern Ireland ombudsman. How

did you get those powers? Did the Northern Ireland Assembly legislate for them?

Marie Anderson: Yes, it did.

Mary Fee: Could the Scottish Government legislate to give our ombudsman the same powers?

Marie Anderson: It is a long time since I looked at the Scotland Act 1998, but I think that the area is devolved. Our legislation was a result of a long-overdue review and reform of the office. An external review report was commissioned by the former Office of the First Minister and Deputy First Minister. The report sat for a while and when I became deputy ombudsman in 2009, the Government was not particularly interested in developing the ombudsman—well, I would not say that it was not interested; it had not got the legislative resource in the office of the legislative counsel.

We asked the committee to use its legislative powers to bring forward the legislation that was needed in Northern Ireland to reform and modernise the office of the ombudsman and give the ombudsman the powers that they needed—it was actually a committee of the Northern Ireland Assembly that developed and led on the legislation.

The Convener: As a follow-up to that question, we should put the question to Judith Robertson about the powers that she has. I saw you nodding vigorously when Marie Anderson said that we could legislate, too, and I suspect that you meant “Please do it.” Will you give us a bit of insight into the powers that you have and what you need to build on them?

Judith Robertson: In many respects, and for an international human rights commission, our powers are relatively limited. Our general mandate is to develop public awareness of and support for human rights, and to increase public understanding of human rights. We have specific powers of inquiry that enable us to inquire into Scottish public authorities and their practices when we deem there to be a risk of human rights abuses.

However, we cannot investigate a public authority. I will not go into detail but there are limits on that. Within our power of inquiry, we have the power to enter a place of detention, if that is the subject of the inquiry, to investigate whether human rights abuses are taking place. We also have the power to compel evidence.

We can make recommendations but we have no additional power to ensure that those recommendations are being held to by any public authority or—

The Convener: Could you go through the Lord Advocate, for example, in the same way as Marie Anderson can go through the Attorney General in Northern Ireland?

Judith Robertson: We probably could because it is not ruled out and nothing says that we cannot. It is not mandated for within our legislation, but it is not ruled out.

The final power that we have is the power to intervene in civil cases. We have no power to take a case. We cannot raise a case ourselves in the courts in Scotland and we cannot take strategic litigation. We can only intervene in cases from a human rights perspective, with the court's permission.

The Convener: That is interesting stuff, which give us some work to do. Excellent.

We have only a few minutes left—as I said, we have a tight schedule this morning. David Torrance is going to hit the panel with a pretty substantial issue, as you will understand as soon as he says “Brexit”.

David Torrance (Kirkcaldy) (SNP): Thank you for that, convener.

With Brexit less than a year away, does the panel think that human rights will progress in line with the European Union approach or that they will be lessened because of our exit from the EU?

Judith Robertson: I am sure that we all have views on that. I will start. What coming out of the European Union does, and what the European Union (Withdrawal) Bill does, is to remove us from the Charter of Fundamental Rights of the European Union. That removes a backstop of protection in relation to how we deliver and implement our laws.

In strict human rights terms, the impact on day 1 of our coming out of the European Union is relatively limited. The risk is what happens after that, when the backstop of protection is not there and we are no longer bound by the charter. The UK Government will have the authority to row back on those rights in future. I am sure that Nora Uhrig will talk about how the EHRC has tried to advocate at Westminster to prevent that from happening.

For me, that is one of the issues at the heart of this inquiry. Our being without the backstop that the EU framework provides—although we will still be members of the Council of Europe—is not the only reason why the Parliament should become a more effective human rights guarantor, but it is one reason. Increasing the competence, capacity, knowledge and skills of MSPs, the parliamentary system and Government around human rights will mean that when you are looking at legislative processes, whether they are developed at Westminster or, as is more likely, in Scotland, you

will be able to see the human rights implications. You will be able to spot the potential erosion of rights—or indeed the development of rights, which is what we will be looking for. That, for me, is one of the pressing reasons why we are keen for the Parliament's capacity in relation to human rights analysis to be strengthened.

The Convener: I will bring in Nora Uhrig next, and then I have a substantive point to put to Marie Anderson on the back of David Torrance's question.

Nora Uhrig: As Judith Robertson said, the EHRC has done a lot of work to try to ensure that the charter is included in the withdrawal bill, so that it gets translated into domestic UK law. The main reason for that is that the charter protects certain human rights that we will lose if we lose the charter—that is, there will be less protection for the rights that we have.

Beyond that, as Judith Robertson said, there is the potential for the UK Government to regress on quite a lot of rights once we leave the European Union. Much depends on what happens after Brexit and the kind of developments that we will see. A lot of human rights issues are complex and broad. For example, environmental protection can have a huge impact on human rights. It is about not just matters that might initially be identified as human rights issues but a very broad set of policies that might change dramatically after Brexit.

That is part of the problem with the whole process. There is so much that we do not know and it is so difficult, even for experts in the field, to get an overview of what will happen after Brexit, because we are talking about laws that we have had for 40 years and we are not sure what will happen, what kind of legislation we will see and what the full implications will be.

The Convener: Before I let David Torrance back in, I have a question for Marie Anderson. The charter of fundamental rights was fundamental to the Good Friday agreement, the setting up of the Northern Ireland Assembly and all the things that came with that. I suspect that, because the Human Rights Act 1998 is a key element of the Good Friday agreement, human rights are more strongly threaded through your public bodies. Will you give us an insight into the position in Northern Ireland? There are discrete issues to do with the Good Friday agreement and the charter being the foundation of that agreement.

Marie Anderson: As I recall, the provisions of the Northern Ireland Act 1998 required public bodies to ensure that they complied with the convention rights. That act was in force in advance of the Human Rights Act 1998 so, at that point,

Northern Ireland was ahead of the rest of the UK in incorporating the convention rights.

The constitutional settlement that was achieved by the Belfast or Good Friday agreement has, at its heart, the protection of the human rights of all people in Northern Ireland. Whether or not the Human Rights Act 1998 is repealed, the culture in Northern Ireland is, as my colleagues would describe it, of rights holders—that is, of individuals being aware of their human rights and those rights being a fundamental part of their lives. That is what they seek and expect.

We—by “we”, I mean the equality, human rights and ombudsmen community—talk about mainstreaming, which is the real challenge. That is about having a culture in which respecting and protecting human rights becomes second nature. I consider that, because human rights are part of the constitutional settlement and because of all the great work that has been done by the Northern Ireland Human Rights Commission, the Northern Ireland Assembly and the other institutions, there is mainstreaming of human rights. The challenge for Northern Ireland is to ensure that that continues.

What happens with the border is a political issue that I cannot comment on, but the issue raises concerns. In his recent annual statement to the Northern Ireland Assembly on the state of human rights, Les Allamby, the chief commissioner of the Northern Ireland Human Rights Commission, flagged areas in which there are gaps in the protection of human rights. What will happen in those areas? A lot of excellent work is being done. People expect their rights to be protected, and they also expect to be able to vocalise that that should be the case. Indeed, people, particularly when they come to offices such as mine, will raise human rights issues.

We cannot overestimate the effect that the lack of resources has or where we have been fiscally and financially for a long period. It would be a challenge if we were to leave aside the Human Rights Act 1998. However, human rights may not be at the top of the agenda of a health trust whose budget has been cut or whose patients' demands are rising while the budget is staying still. That is the reality.

The financial difficulties and the recession that we have experienced over such a long time are significant challenges. We are trying to do our best on the competing rights debate with what we have, but we are stretched.

Those are my reflections.

The Convener: That is very helpful. David Torrance will now ask his final question.

David Torrance: Marie Anderson has answered it.

The Convener: Are there any further points from the panellists? Is there anything on your agenda—a burning issue—that we have not touched on?

Marie Anderson: I would like to leave with the committee a copy of the human rights manual that the International Ombudsman Institute has supported us in producing. It is an investigation manual with human rights screening tools that might help when the committee comes to scrutinise using a human rights-based approach, if that is the way that it wants to go.

10:00

The Convener: Wonderful. We always like a present.

Judith Robertson: I have a final point. In our written submission, we noted that the committee's human rights mandate is for the extent of this parliamentary session only. One of our absolute recommendations is that that be extended in perpetuity. We hope that that will be a recommendation in the committee's report.

The Convener: Indeed. We noted that.

Judith Robertson: Excellent.

Nick Hobbs: I have a specific point on the Brexit question. Our office has consistently had concerns that, throughout the process, children's rights have not been part of the discussion and children and young people have not been involved or informed. The commissioner issued a letter in partnership with the European network of ombudspersons for children that articulated those concerns. That children's rights have not been part of the discussion at all continues to cause us concern about what will happen post-Brexit.

Nora Uhrig: I have two points to make, one of which is on Brexit and is partly related to what Nick Hobbs and Marie Anderson have just said. We have serious concerns about the loss of funding for a lot of projects. In many cases, they might be projects that are not specifically linked to human rights but, as part of the requirements for receiving the funding in the first place, need to adhere to certain criteria that look at issues such as accessible bus stops. Therefore, human rights are connected to the loss of that funding.

I want to briefly cover the remits of the EHRC and the SHRC. We are the national equality body for Scotland, England and Wales, but we are also a national human rights institution, just like the SHRC. The way that we split up our work quite nicely reflects devolution, so we work closely with the SHRC on a lot of treaty monitoring work.

The committee should look at treaty monitoring work and specifically focus on follow-up work. It is nice to get involved in the process with the different treaty bodies and the universal periodic review—UPR—process, but it is really important to follow that up. There are a few things that the committee could look at. For example, it could invite the relevant minister to come to a committee session and question them a few months after the concluding observations have been issued. It could ask what they are doing and have done so far to address the various concluding observations. When the committee establishes a process for doing that, the Scottish Government will anticipate it and ensure that, by the time that a minister comes to the committee, they will have done something and will have something to say.

The Convener: That is a really good recommendation. We have already started to establish that pattern because, as a running agenda item, we have had the cabinet secretary here to talk about the UPR. You are absolutely right: if ministers expect to be here, we expect to hear answers and responses. That was a point well made. We are already undertaking that, but any further advice on that would be gratefully received.

I will suspend the meeting shortly. I thank our panel. We are about to have another, bigger panel with lots of other discrete interests, but we are really grateful to all of you for coming along to represent your interests. We are very grateful to Marie Anderson for coming from Northern Ireland. She has given us a perspective on how things are perhaps done a bit differently elsewhere, which we can tap into and use for our recommendations. We have great recommendations from all four panellists, and we are really grateful to them. If you go away and think of something that you should have said, please let us know. We are doing the inquiry for a while and are keen to hear about all aspects, including anything that you think would improve the lot of the Scottish Parliament in becoming the guarantor that we all want to see.

10:04

Meeting suspended.

10:13

On resuming—

The Convener: We will continue with our first agenda item, which is our inquiry into human rights and the Scottish Parliament. Our second panel this morning is larger than the first. We have a huge panel in a round-table format. To give a few rules of the round-table format, panel members should just catch my eye and I will let them in. We try to make the discussion as free-

flowing as possible. Members are dotted round the table, and they have specific questions. If the panel members heard some of the discussion with the earlier panel, they may have some idea of where we are going in our inquiry.

We have with us Gordon MacRae, chief executive of the Humanist Society; Anthony Horan, director of the Catholic parliamentary office of the Bishops Conference of Scotland; Delia Henry, director of charity services at Age Scotland; Ally Thomson, director of Dignity in Dying; Bill Scott, director of policy at Inclusion Scotland; Lucy Mulvagh, director of policy and communications at the Health and Social Care Alliance Scotland; Graham O'Neill, policy officer at the Scottish Refugee Council; Michael Clancy, director of law reform at the Law Society of Scotland; and Helen Martin, assistant general secretary of the Scottish Trades Union Congress.

We decided to bring you together because, although you all have discrete roles, your interests are aligned in many ways and in relation to the rights-based approaches that we take in Scotland. That is why you are all here and why we are keen to hear from you.

We will start with an opening question. Panel members should just try to catch my eye and, when they jump in, they can tell us a wee bit about their organisation and then, I hope, answer the question.

10:15

Alex Cole-Hamilton: I welcome the panel. It is great to have such a diverse range of experience and views round the table.

The committee is charged with the observance of human rights in every walk of life and at every stage of life as well as their delivery through public policy and implementation of that on the ground. However, it has always struck me that we have a suite of human rights in international treaties that cover every aspect of our lives save one: the end of our lives. Do you agree with my view that, should I reach the end of my life in unendurable pain that is beyond the reach of palliative care, I should have the right to say, "This far and no further," and to be assisted through any means necessary to quit this life with dignity?

The Convener: That is clearly directed at Ally Thomson.

Ally Thomson (Dignity in Dying): Yes. I represent Dignity in Dying Scotland. We believe in the right to a good death for everybody, including the option of an assisted death for terminally ill and mentally competent adults. We strongly believe that, in Scotland, a small but significant number of people are experiencing a very bad

death. Every day, people come to our organisation and tell us stories about that. Recently, a lady said that it took her mum 12 days to die when nutrition and fluid were withdrawn. That was an agonising 12 days during which that woman experienced endless pain and suffering that was needless and did not have to happen.

Around the world, many other jurisdictions are looking at what rights people should have at the end of their lives and are taking action. That action really needs to be taken in Scotland. Currently, one person from the UK goes to Dignitas every eight days. Figures show that, of all suicides in England last year, 300—or 7 per cent—involved someone who had a terminal illness. The fear of pain and suffering at the end of life is driving people to take their own lives.

Dying people's loved ones—their family and friends—can potentially be criminalised for the act of helping them with their dying wish, either through travelling with them to Switzerland or doing something here. We do not have guidelines relating to that in Scotland, although there are guidelines in England and Wales, from the Director of Public Prosecutions. The state of Victoria in Australia, which has a population that is similar to that of Scotland, at 7 million, recently took action and introduced a very safeguarded bill that manages—like the legislation in Oregon, which has been in place for 20 years—to empower dying people at the end of their lives while providing the vital and necessary protections and safeguards to groups of people in society who may feel vulnerable as a result of such legislation.

On the point about safeguarding, at the moment there are no safeguards other than a police interview after a death has happened. We favour a compassionate and safeguarded bill that would empower dying people and give them access to the human rights that they desperately need but would also protect others in society.

Our campaign is popular, with 77 per cent of people in Scotland backing the proposal. The Parliament has the power to take action, and we strongly believe that it should do so.

Bill Scott (Inclusion Scotland): That issue is not really what I came here to discuss—I thought that we were going to talk about human rights and how the Parliament could help everybody in Scotland to access them—but I will have to reply to that.

There is certainly no unanimity among disabled people. A number of disabled people support the right to die. However, our policy position at the moment, which was decided on by disabled people themselves, is that we oppose it on the basis that the scope of every bill on the subject that has been brought before the Parliament has

been well beyond what has just been described, and has included disabled people with non-terminal conditions who are living in pain, et cetera.

I really want to discuss how the Parliament assists disabled people to live rather than to die, because there are tens of thousands—at least—of disabled people in this country who are living without dignity and respect because their rights to independent living and to participate in society are being denied to them. The Parliament's job should be to uphold those disabled people's human rights to live with dignity and respect and to participate in society. There should be better palliative care so that people do not die in needless pain, but I would much rather that the Parliament started to talk about how we uphold the right to life and the right to live that life with dignity and respect, with adequate income.

In 2010, 30 per cent of those on what was then incapacity benefit had had thoughts of committing suicide. Now, 40 per cent of people who are claiming employment and support allowance have had thoughts of suicide, and some have acted on them. There are certainly documented cases of hundreds of people who have committed suicide due to welfare cuts. We are living in a society that imposes that level of deprivation on disabled people when they have a right to an adequate income.

Let us talk about human rights, but let us talk about upholding the human rights of the tens or hundreds of thousands of disabled people who have suffered loss of income because of austerity policies that the UN has described as a "human catastrophe". If it was a human catastrophe that was happening in another country, we would all be sitting around saying, "What can we do to address and alleviate this?" The Scottish Parliament needs to address those issues, because disabled people are suffering in the here and now in their tens of thousands. I have had phone calls from people who were contemplating suicide because they have lost their welfare benefits, and I have had to deal with that.

I understand where Alex Cole-Hamilton is coming from, but I hope that this Parliament and this committee will take more notice of the need to live rather than the need to die.

The Convener: Can I reassure you that that was a specific question that Alex Cole-Hamilton wanted to come in with? We have other questions—I will not describe them as general, because they are still specific—on the wider issues around human rights, but I thought that we could deal with that one before we get into the substance of some of the other questions.

Alex Cole-Hamilton: I reassure Bill Scott that we will absolutely cover a range of the topics that he described. When the committee discussed our inquiry, we had a discussion at the margins about its range and scope. We are covering all the issues that he described, and we are doing so very thoroughly, but for me and other members of the committee, the elephant in the room is the rights that are currently denied to Scottish citizens, and the thrust of my question was clearly that I believe that Scottish citizens should have the right to die. Clearly, you may disagree—

Bill Scott: That is not in the UN convention, Alex, but you know that.

Alex Cole-Hamilton: Be that as it may, it still strikes me as a missing human right.

The Convener: Anthony Horan and Gordon MacRae want to come in.

Anthony Horan (Bishops Conference of Scotland): First and foremost, nobody likes suffering, and there are some truly awful cases of people who have suffered greatly and want to end their lives. Ally Thomson alluded to that. I do not think that we can have anything but compassion and sympathy for those people in those situations, but I find that this is entwined with the concept of the common good. I do not think that the law can be neutral on the matter. Either it regards death as a therapy or it upholds the sacredness of all life, which Bill Scott spoke about so passionately a moment ago.

Proponents often speak about a narrow definition, but we have heard about people being euthanised for addiction to alcohol and concerns about people being a burden on their family or subject to coercion. Rather than condemn people to unnecessary suffering, we ought to enhance the quality of care for the dying through investment in palliative care, which Bill Scott alluded to.

We should not go down the road of making the vulnerable more vulnerable, risking the trust between doctor and patient or undermining palliative care or the Hippocratic oath. We need to think deeply about this and hear all sides of the argument—if I am given the opportunity, I would like to go on to that matter a little later.

Gordon MacRae (Humanist Society Scotland): I am the chief executive of the Humanist Society Scotland. We have 15,000 members across the country who very much support the principle of a right to a dignified death for anyone who experiences unbearable suffering.

It is interesting for the committee's new role that the diversity of opinion in Scottish society is undeniable. Most public polling research says that the majority of people in Scotland agree with the principle. It is reasonable to reflect on the two bills

that were introduced to Parliament and say that it might have been beneficial to have a broader inquiry, rather than simply forcing a decision on proposed legislation.

The circumstances in which disabled people in Scotland find themselves are not incompatible with a role for the committee in addressing both matters. We share the horror of the impact of austerity on people's lives, but the challenge now is how to explore where Scotland sits on this issue. We have to take an evidence-based approach to the issue; with respect to what Anthony Horan said, we cannot just rely on what we have heard. Other jurisdictions have had reports. The compilation of the evidence that is out there for a committee inquiry would be a very powerful way to explore the arguments, which may take some of the heat out of what can be a contentious debate.

The Convener: If Ally Thomson will give a very quick response, Gail Ross has a much more general question that will allow everyone to come in.

Ally Thomson: As Gordon MacRae has said, there is evidence. Twenty years of evidence from Oregon shows that the law there has not led to an extension to the criteria that are used; an assisted death would not be allowed for being old or disabled unless that person had a terminal illness as well. I support a wider inquiry into full end-of-life rights, including the right to palliative care and treatment. We firmly believe in assistance to live as well as—when necessary, and when there is no other option and death is inevitable—assistance to die.

Gail Ross: Good morning to all our panel members. I thank those of you who replied to the first question. I know that it is a very emotional subject for a lot of people.

As the convener said, I will look at human rights as a whole. Past evidence sessions have been good in looking at how to reach people in society to empower them to realise that human rights are for everyone, not just for certain groups of people. Today's panellists all have specific remits for certain groups in society. How do you reach those groups to inform them of their human rights? If they feel that those rights have been violated, how can you assist them?

Delia Henry (Age Scotland): Age Scotland has talked a lot recently about the principle that you have suggested. The EHRC in Scotland did some work on what human rights look like for people and how to build a human rights culture in Scotland. Our organisation's demographic is people who are 50 and over; if other panellists are over 50, like me, they may not consider themselves an older person—I see that heads are

turning—but they are who we look at. People who are 65 and over were conflicted by the term “human rights”, which we thought was interesting. It was important to those people to talk about values, equality and being treated well.

10:30

Language is really important for people, as is understanding what human rights might be for them as individuals, for example in relation to care for older people. In Scotland, people have access to free personal care, but when that does not work for them, it is important that they are able to respond to that and to know what to do about it. Advocacy is very important for people, so it is about getting independent advocacy and that kind of support. We do that work at Age Scotland. We talk to more than 10,000 people a year, and more than half of them talk to us about when free personal care does not go right. It is very important to do that.

On Gail Ross's point, if, as a principle, the Parliament took the approach of telling people what their rights are and supporting them to access their rights, it would go a long way to reinforcing human rights for older people.

Helen Martin (Scottish Trades Union Congress): I represent the STUC, which is the trade union centre in Scotland. We represent 560,000 workers who are members of trade unions. We spend a lot of time trying to support people to access their rights in the workplace and as citizens, and we do a lot of engagement in different human rights processes. We submit evidence to the treaty review processes and to this committee, and we go to give evidence in Geneva, when appropriate.

In supporting our members who are trying to access their rights, one of the key breakdowns that we see is that workers' rights are often not considered in the human rights landscape by a lot of actors, even though it is clear that economic, social and cultural rights are part of the human rights landscape and that there are overlaps in various areas. When we start to talk about workers' rights and, in particular, trade union rights, we see that the idea that they are seen as human rights that need to be defended is not very well built into the human rights infrastructure in this country.

Take, for example, when the Trade Union Bill was passing through Parliament in Westminster. It just so happened that the International Covenant on Economic, Social and Cultural Rights treaty review was also under way. For the trade unions part, we put in detailed evidence to the review about the Trade Union Bill and why it was a breach of human rights for workers in Scotland.

The ICESCR treaty review body agreed with us that it needed more scrutiny and was a worrying development. Organisations such as Liberty supported the human rights arguments that we made about the bill at that time. However, the Scottish Human Rights Commission made no comment in its evidence to the ICESCR review about the Trade Union Bill—the words “Trade Union Bill” were not used in its submission—despite the fact that the treaty looked at trade union freedoms and the bill was passing through Westminster at the time that the evidence was taken. When we raised that with the Scottish Human Rights Commission, its explanation was that the issue was marginal and it was not convinced that there was a human rights issue there, despite all the representations that we were making, the comments from Liberty and the similar points that the First Minister was making about human rights and workers’ rights.

We feel that there is a consistent gap between what would support our members in the workplace and on the ground and the human rights machinery that sits at the top. Often, there is not quite a read-across between the sorts of things that we work on each day and how the human rights infrastructure supports us.

Lucy Mulvagh (Health and Social Care Alliance Scotland): Thank you for the opportunity to take part today. For those who do not know the alliance, the Health and Social Care Alliance Scotland is the largest third sector intermediary for health and social care in Scotland. We have a wide range of about 2,200 to 2,300 members, including people who identify as disabled, people living with long-term conditions and unpaid carers. Membership includes third sector organisations, from community-based to big national players, and some health boards and health and social care partnerships; there are also corporate associate members. We work with a wide range of people and organisations, and human rights sits at the heart of that work, which focuses primarily on ensuring that the voice of lived experience is at the heart of policy and practice in Scotland.

Our approach is rights based with a rights-based message. Some of the ways that we do our work around rights is through publications, consultations and events. With NHS Health Scotland, we co-convene the SNAP—Scottish national action plan for human rights—health and social care action group. We feel like we are doing a lot of work to inform people about their rights.

A key question about empowerment is that it is not just about informing people about their rights but about facilitating and enabling them to take the actions necessary to enjoy those rights. The key area for Scotland is possibly an implementation gap between the rhetoric and the reality. On

paper, one could say that the language in Scotland is very pro-rights, which we strongly welcome. Unfortunately, we sometimes see that the language does not match what people experience in their everyday lives. Health and social care has examples at the moment about self-directed support and the integration of health and social care; I will not go into detail, but I will be happy to follow up with evidence of that.

Access to independent advocacy services is an incredibly live issue, particularly in discussions about the development of the Social Security (Scotland) Bill. Our understanding, and that of more than 70 organisations including the Scottish Human Rights Commission, is that the right to social security, which is in the bill, includes universal access to independent advocacy, without which a person might not be able to realise their right to social security. Unfortunately, current discussions suggest that that right to access the services may be limited in the bill. We are looking for that right to be extended in the real world. People with disabilities need and want independent advocacy at certain times, but so do many other groups that currently access social security entitlement. This committee, and other parliamentary committees, could play a strong role in that live issue by asking what the international framework and treaties say about the right to social security and how that plays out in the lives of people who live in Scotland.

The Convener: That is interesting.

Michael Clancy (Law Society of Scotland): Gail Ross raised an interesting question about how to get people to know about and understand their rights. Scotland’s solicitors—nearly 11,500 of them—deal with human rights day in and day out. Our legal system is based, to a great extent, on the implementation of human rights, through a troika in which human rights, the rule of law and democracy act in concert to enable humans, in society, to fulfil our lives. The connective factor between us all in this meeting is that we are all humans and we all have rights—that is an important, although trite, observation. However, if I were to shine a light in the faces of some people here and ask them to enumerate all the articles in the European convention on human rights, we might not get the answer that we expect—including from myself.

Public legal education goes to the heart of making sure that people in Scotland are properly educated and understand their rights. We participate in a street law programme, in which young student lawyers go into schools to teach children about the legal system and their rights. That process is good, and similar programmes could be extended.

Parliament has an extraordinary outreach programme; I wonder how many millions of people have come through its doors, and how many hundreds of schools do so every year. I am sure that the hard-working people in its visitor centre tell visitors about the centrality of human rights to Scottish legislation, due to the devolution arrangements. Parliament's competence is such that it cannot make legislation that is incompatible with the European convention on human rights. Prior to devolution, legislation from the UK Parliament was the law and it could not be undermined, but the Scottish Parliament's competence provisions mean that the question has to be asked whether an act is the law and whether it is compatible with human rights and, for the time being, EU law and all the other restrictions with regard to compatibility.

That foundation base is important for us to remember; we all have to ask ourselves whether the legislation that is enacted in Scotland is compatible with human rights; if it is—as most of it has been—we can have confidence that those rights, as defined in the ECHR, are being respected.

Gordon MacRae: I will pick up on those comments and also something that Judith Robertson said earlier. An issue to look out for is that in empowering people to use their rights we must not place too much of a burden on an individual to be the only person who can pursue a right through the legal system.

The Humanist Society has direct experience of that. We sought a judicial review of whether young people could opt out of religious observance. To test the human rights element, a child would have had to take the case, which might have lasted longer than they would have been denied their rights—by the time that the case was called, they would have gained that right anyway.

The EHRC has identified another example, which is the effective veto that some religious bodies have over teacher recruitment. It wants to test that in court, but cannot find a teacher who is prepared to be the test case.

How can we better test the gaps in legislation to make sure that, culturally, taking a case in principle is viewed as a constructive partnership between civic society and Government, rather than a confrontation? We support enhanced powers for strategic litigation for Scotland's human rights bodies to allow that process to take place, so that the rights are available to people when they need them. Education takes people so far; people can know about their rights but can they actually manifest and exercise those rights? That should be the test.

The Convener: That will be an excellent and interesting aspect for the committee to look at. Mary Fee's question follows on from that and will allow some other panel members to come in.

Mary Fee: I apologise to everyone who has come along because I have to leave in about 10 minutes for another meeting. I am grateful to have the opportunity to ask quite a wide-ranging question that would apply to any committee's scrutiny work for the Parliament.

You all represent different areas and have regard to different aspects of human rights, but you all have an underlying obligation to everyone's human rights. When the Parliament's committees are doing scrutiny work, how can they ensure that, while they have regard to one aspect of human rights, they do not ignore the others?

10:45

If we have a panel in front of us, there will be a number of different, competing human rights. Any of you who were here while the previous panel was giving evidence will have heard the Northern Ireland Public Services Ombudsman talk about the competing human rights of young people and adults and which take precedence. I imagine that every committee across the Parliament comes across the issue when doing scrutiny work. Which human right takes precedence? How do we ensure that we do not ignore someone's rights?

Helen Martin: There is a very interesting discussion about how we make human rights tangible. For my part, that goes to the heart of the question. I was very interested in the previous discussion about the idea that, if the legislation is correct, that somehow creates rights for people. We need to acknowledge that we have quite a lot of examples of legislation being positive and correct but its implementation, while not necessarily being poor, not delivering on the ground in the way that it should.

A glance at the equal pay situation in Scotland shows quite clearly the difference between having a right in principle and having that right delivered. Thousands of women who have been fighting, taking cases and trying to assert their rights in a court of law are still waiting for justice, and we have seen systematic failures from Government, the EHRC, councils and politicians in supporting the realisation of equal pay.

Unison has prepared a very good piece of research on exactly what has happened with equal pay in Scotland, which it has submitted to the Committee on the Elimination of Discrimination against Women. I would like to send a copy to the committee. It sets out in some detail the timeline from the 1990s right up to the present day, showing how the legislation was taken forward

and just how systematic the failings really were. It notes how many times there were when people should have acted on equal pay, particularly in local government, but no action was taken. Action was taken by the EHRC at Glasgow City Council, but that was never published, and that contributed to the situation that we have today. We still have women who are fighting to receive their compensation, and we have women who accepted poor deals in lieu of what they were owed.

Coming back to your question about committee scrutiny and how we balance rights, we need to remember that we can see systematic rights abuses so regularly that they become part of the furniture and are normalised. It is now normal to see women come and give evidence about not being paid properly for their labour. We must try to think about what the world should be like. We should think of the rights that people should have, and we should stretch ourselves and insist that rights are upheld in the way that they should be. It can be easy to normalise rights abuses in our society, which can seem quite mundane.

That would be my plea to this Parliament, which comes out quite well. You are one of the better actors that we have, and I think that you work very hard to try to uphold rights and tease out the arguments. However, I would ask that you think really clearly about what you can do to take away the normalisation of rights abuses.

The Convener: We are keen to see the research that you mentioned.

Helen Martin: I will send you a copy.

Anthony Horan: The church does not necessarily seek to provide concrete answers by way of specific policies and procedures, but we hope to shine a light on broad principles in the furtherance of human rights. We proclaim the importance of human dignity. Although we believe that dignity to be transcendent—that is to say, that it is rooted in God—we appreciate that not everyone will necessarily hold that view. Nonetheless, I believe that we can all work for human dignity and the common good.

The fundamental point is that all human beings and their human dignity must be protected. Nobody can be left behind—nobody at all. That highlights the problem that Mary Fee brought to light.

In the previous evidence session at the end of March, Dr Katie Boyle made the excellent point that

“we can all agree on some kind of understanding of human dignity as a basic component.”—[*Official Report, Equalities and Human Rights Committee*, 29 March 2018; c 16.]

As I said, the church believes that human rights are found in the natural law—they are inscribed on

the human heart. In layman’s terms, that basically means that deep down every human being knows what is right and what is wrong. That might be alien to some, but there is surely some merit in believing that, at least in some matters, there is a universal truth on which we can all agree.

I will give a couple of examples of what I believe to be fundamental human rights. The right to religious freedom, whereby people can manifest their faith, the right to conscientious objection and the right to free speech are surely basic human rights in a democratic society.

The right to life is another one. At the beginning, Alex Cole-Hamilton mentioned rights at the end of life, but I will drag the discussion back to the beginning of life, if I may. It is no surprise that the Catholic church believes in the fundamental right to life from conception to natural death. There is no doubt that that issue attracts much controversy and is a sensitive one, but that does not mean that we should shirk it. On the contrary, we have a duty to engage in respectful but vigorous dialogue in order to try to get to the truth of it.

I would like the committee and the wider Parliament to be more open to the views of all people with an interest in fundamental rights issues such as the right to life, in order to have a really deep and meaningful search for the truth on that issue. There is sometimes a reluctance to tackle certain issues head on. Abortion is one such issue. Of course there are reasons for that. Alex Cole-Hamilton touched on that at the previous evidence session when he suggested that politicians “traditionally shy away” from controversial issues. That is important. Many politicians are afraid, for one reason or another, to publicly take a view on controversial issues, and sometimes we would think, “Who can blame them?” given some of the appalling vitriol and hate to which public figures are subjected through the media, particularly social media.

However, the Parliament still has a responsibility to have an informed, respectful and honest debate on these issues. That was never more evident than in the recent parliamentary debate marking Down’s syndrome awareness week. That was an honourable topic, which undoubtedly needs to be discussed. However, I must confess that I was disappointed that a debate on the challenges facing people with Down’s syndrome failed to really face up to the biggest challenge facing those people, which is that nine out of every 10 unborn children with Down’s syndrome in the UK are aborted. That is just one example, which is highly sensitive—I know that a lot of emotion is involved in it—but it highlights the importance of discussing such issues.

I appreciate that my call for greater openness and honesty cannot rest on the shoulders of this

committee alone. Whether in this committee or the main chamber, I would like to see more open and honest consideration of all the issues relating to human rights. This point ties in with Mary Fee's question: when we are dealing with human rights it is absolutely critical that we make sure that voices on all sides of the debate are heard.

The Convener: Thanks very much, Anthony. As you can imagine, we are trying to hear everybody's voices around the table this morning. I will ask Bill Scott to come in next, followed by Lucy Mulvagh and Graham O'Neill.

Bill Scott: I am sorry that I did not introduce myself properly when I spoke before. I am from Inclusion Scotland, which is a national disabled people's organisation. Human rights are fundamental to every aspect of our work. We wrote the UN shadow report for Scotland on implementation of the United Nations Convention on the Rights of Persons with Disabilities and we gave evidence in Geneva.

Fundamental human rights, which are universal, were devised after world war two because of the Holocaust, countries refusing to accept refugees and asylum seekers during the war and the results of that. The Holocaust also involved disabled people who were denied their right to life—they were the first to be gassed. The UN and international society have decided that some groups in society need additional protections, as well as the universal and fundamental human rights—those groups are children, women and disabled people.

To answer Mary Fee's question, when it comes to competition between human rights, what the committee should be striving for is equality of outcome for groups that are usually denied that by society. That means that in some cases people will not be treated equally, but with a view to achieving equality of outcome for that individual. If we do not do that, inequalities in society will remain, and those people's human rights will be denied because they cannot access the rights that other people in society take for granted, such as getting up in the morning, getting dressed and so on. The right to independent living does not feature in any aspect of Scottish legislation, but it is one that is absolutely fundamental to disabled people, because without it they cannot participate in society, take part in politics or get their voice heard.

We are a large member-driven organisation, with 40-odd disabled people's organisations affiliated to us, the largest of which has 3,000 members—Glasgow Disability Alliance. When we take human rights issues into the community, we use a human rights toolkit that we devised. It is in easy-read format, which means that it can be easily understood, not just by people with learning

difficulties but by any member of the population. It tells people about their rights under the UNCRDP, the European convention on human rights and the Human Rights Act 1998. It also tells them how to go about accessing those rights, which is a fundamental issue. Rights are absolutely useless if people cannot access them. I very much echo what Gordon MacRae said about test cases and the inability of people to access their rights.

The equality advice service is a national service, and 75 per cent of the phone calls from Scotland are from disabled people concerning disability discrimination. In Scotland, there is a law centre for women, one for ethnic minorities and the children's law centre, but there is no law centre for disabled people. Nobody specialises in that area of law, and the reason why there are so many phone calls to that helpline is that many lawyers do not know what disabled people's rights are or how to go about enforcing them.

We have taken that issue to the Scottish Legal Aid Board, but over and over again we have been denied a law centre for disabled people. That is something that Parliament should be addressing with SLAB. Ask it when it is going to act to address the inequality in access to justice for disabled people in this country. We are being denied justice on many issues. We took the bedroom-tax case not to the courts but to the UN's special rapporteur on housing to get her to investigate it through a special inquiry, which included a visit to Scotland.

The way to publicise human rights is by putting cases in the papers and getting people to realise that human rights are actually about basic everyday things in life, such as the right to a home and family life. Eighty per cent of the people who were affected by the bedroom tax were disabled people. It had a hugely disproportionate impact on them, but nothing was done to address that.

Another point concerns the equality impact assessments for legislation coming before committees. Sometimes I laugh and sometimes I weep when I read them, because they are not informed by equalities groups: a civil servant has just sat there and said, "It's the same for everybody. It won't affect people disproportionately"—but it will.

There have been good occasions when equalities groups have been invited in and we have been asked what we think the impact of a draft piece of legislation will be. However, there are many examples of legislation that we have not been asked about. I do not think that the equality impact assessments meet the standards for compliance with human rights. Parliament could perhaps have a word with the Government about involving the third sector and equalities and human rights organisations in that process.

11:00

The Convener: I speak for the committee when I say that equality impact assessments are something that we grapple with; we are now looking at equality and human rights impact assessments and if we have not got the first part right, we will not get the second part right. We are very mindful of that.

Lucy Mulvagh: Thank you for the opportunity. It is a key issue and something that we have addressed in detail in our written response to the inquiry.

It was noted earlier that equalities and human rights are everybody's business, so they transcend every aspect of the Parliament's work and reach across the work of all the committees. We have asked to see progressive mainstreaming of explicitly dedicated time, for each committee and in other parliamentary work, to address equalities and human rights issues.

We have noted our support for the recommendations in Michael Potter's report for the committee as well as those made by the commission on parliamentary reform on providing support for parliamentarians and parliamentary staff to increase their understanding of international human rights frameworks and laws—not just at European level, but also at UN level—and giving committees, parliamentarians and parliamentary staff the ability to avail themselves of independent expertise, much of which lies in the third sector. We are always ready, willing and able to help with that.

Earlier, the SHRC's proposal for committees to have human rights rapporteurs was mentioned. We agree that that would be a good way forward, but we would want to be sure that the rapporteur's word had a certain amount of weight in the committee and that that approach would not negate the need for all committee members to understand the significance of international human rights laws and frameworks and so on.

One of the great ways that committee members can find out about the reality of human rights is by meeting directly with rights holders. We have done some fantastic work where we have managed to bring together members of the Health and Sport Committee with members of our lived experience involvement network. We took a rights based approach to that, which involved supporting people with practical accessibility issues and providing finance to cover transport and overnight stays in order to facilitate that meeting. We know that everyone involved got a huge amount out of that experience and that it led directly to informing the committee's work around national health service governance. It was a really good bit of work.

Finally, although one might rely on that happening organically, by osmosis through this debate or other on-going discussions, we would prefer to see a concrete action plan with specific, measurable, achievable, relevant, time-bound objectives and targeted, focused outcomes to work towards. We would like it to be financed—if it is not resourced, it will not happen—because we know that if it is not counted, the approach is taken that it does not count. As I said, there are many bodies, including in the third sector—such as ourselves—that are ready, willing and able to help with the process in any way that they can.

Graham O'Neill (Scottish Refugee Council): The Scottish Refugee Council is one of the main refugee rights charities in Scotland. We deliver services to people on the spectrum of international protection: people who are trying to access the asylum procedure, people in the asylum procedure and people who have been recognised by the UK state as refugees, as well as people who have been refused recognition and therefore are not protected by the UK state as refugees. We also work with Syrian families who have come through the UK state's humanitarian protection programme and the resettlement programme. We deliver services and community engagement work with all of those communities.

We also do a substantial amount of policy advocacy work. We work at different levels of governance: the European level, the UK level, which is difficult and challenging for us—I will get to that in a second—and the Scottish level, as well as locally, where things are a bit more productive and it is easier for us to bring about change and get others to listen to our priorities and those of the people with whom we work.

I will step back a bit from that. We welcome the committee's work. It carried out a well-regarded and impactful inquiry into destitution as it affects asylum seekers as well as people with insecure forms of immigration status. That is an example of the Scottish Parliament not being bound rigidly by devolved competence and recognising, as it did with trafficking, that issues that are asserted to be reserved are not reserved in practice or reserved in the daily lives of people in Scotland. Social security is another example of that.

To me and many other people—I agreed with what Helen Martin and Gordon MacRae said on this—asking what we can do about human rights inherently includes the need for an analysis of power relationships. That is inherent in human rights because, if rights are not practically accessible to people, they are not rights at all. That, rather than some theoretical exercise, needs to be the test from which we work. The emphasis on prevention and, as Gordon MacRae said, not putting the onus on individuals follows from that.

One can make no more conservative intervention than putting the onus on the individual. If one looks at the history of any discrimination legislation, one sees that one of the key asks and pushes from all campaigners, whether for the legislation on race relations, equal pay, sex discrimination or disability discrimination, relates to that, so why would it be any different now?

That is very topical in relation to how the Windrush generation has been treated by the UK state through its Home Office function. That is little short of disgraceful, but we need to be clear that it is a logical symptom and logical product of the UK Government's hostile environment policy. I say that because, as Mary Fee's question indicates, the committee has a real responsibility to adopt a relentlessly critical perspective, immediately get to the power imbalances within society and prioritise the widest range of voices that it can, particularly those of people who have lived experience of issues. As Helen Martin mentioned, the committee has a comparatively good track record on that but, of course, one of the worst things that one can do from a human rights perspective is to be complacent, so the committee needs to ensure that it does not do that.

I will focus on the asylum system as an illustration of some of the challenges with which we are working. At the Scottish Refugee Council we are clear, and I think that we speak for the wider refugee and migrant sector in this, that there has been a real contortion of the universal human right to seek sanctuary and safety—asylum—in another country. As Bill Scott correctly articulated, that legal right was born from the international community's revulsion at the horrors of the Holocaust. However, we are clear that successive UK state Governments, as the state party to the United Nations Convention Relating to the Status of Refugees, have contorted that right to asylum and made it into something that it is not. They have made it into something that has great negativity around it, when we and the people who make decisions on asylum cases, among other things, should genuinely be proud of it.

If you look at the UK asylum system since 2000, you see that it has been the hostile environment policy in practice. Now it has been given that name, and the policy has been applied to a much wider group of individuals with other forms of immigration status query. To respond to Gail Ross's earlier question, one can make a practical difference to that through the relentlessly critical perspective, through the emphasis on prevention and through not putting a perverse onus on the individuals. However, it is also about recognising that practical measures need to be taken.

Things such as advocacy services are essential. If we did not have advocacy services for people

across the protection spectrum, we would not be able to ensure that people could access their rights. Without them, a decision can be made—which will not be articulated as such—that it does not matter whether people can access those services. Advocacy services are a bridge for people to access rights, so it is important that we are clear that they are not an add-on. They are an essential part of a human rights-based approach in any community where there are—as there always are—significant power imbalances that affect certain groups and communities. Bill Scott alluded to that. We need to work from that basis. In that regard, we welcome the inquiry by the committee, which has a proven track record in taking this work forward.

We are now in a Brexit environment, and the Scottish Refugee Council is very concerned about that, because it removes the European Union directive sources of protection for people on the international protection spectrum. Frankly, we do not trust the UK Government, given the ways in which successive Governments have treated the rights of people in the asylum process. For example, aside from the denial of the right to work, the asylum support system says that it is okay for people to live on financial support that is between 40 and 50 per cent of the minimum social security level for everybody else. What is that if it is not state discrimination? People do not need to agree with that, but we are clear about it, and we see the lived experience of children and mums who have to go without and do not get the food and the nutrition that they need.

Bill Scott talked about what has happened with austerity. We have experienced that in the asylum support system for more than 20 years now, and it is something that we need to name as a discriminatory system. Some would say that it is a racially discriminatory system, and we would not disagree with that. Let us break the institutionalised thinking that exists around so many of our human rights, which Helen Martin alluded to earlier. We believe that the asylum support system is a clear example of that. Why is it okay that a child who has come from Syria, Eritrea or Afghanistan has to go without when a child with whom they are friends at school does not? Of course that is a disgrace, and it should not be the case. To give the Scottish Government its due, I note that it recognises that and has tried to maximise measures to try to deal with it. The Child Poverty (Scotland) Act 2017, and the national delivery plan that has come from it, is the latest example of that.

The Scottish Parliament's committee structure is a really positive—and, I think, essential—intervention to make sure that human rights are taken forward and are realisable for the people

who are resident and are citizens within the country.

The Convener: Thanks very much for your comprehensive answer, Graham.

We have time for a quick comment from Michael Clancy, and I am afraid that we will have to stop at the end of that, even though I know that David Torrance is desperate to get in with a Brexit question.

Michael Clancy: I will concede to David's Brexit question.

The Convener: Go for it, David. Please be quick.

David Torrance: Thank you, convener. Brexit is fast approaching—it is less than a year away. Do the panel members think that human rights will keep pace with Europe or is there a chance that they will be diluted? I am thinking about workers' rights and disabled rights, but also about the third sector, where a lot of the organisations that promote human rights are funded directly from Europe.

Gordon MacRae: We are incredibly concerned about where the protections for human rights will sit after Brexit. Others will be able to talk specifically about individual rights, but I ask the committee to consider how you will be able to maintain links with European bodies after Brexit, including bodies that the UK will still be a part of. I implore you to do that because, despite everything, the UK has been a very positive force on human rights at a European level.

The Humanist Society Scotland is part of an international movement around humanism, and we need to look at what has been going on in Hungary in recent years, but also in places such as Poland in relation to the right to bodily integrity for women. Where we have seen concerted efforts to twist human rights language to try to limit the rights of people in those nations, the European supranational structure has been a backstop and protected against that.

It remains to be seen what will happen. We have to be sceptical about the appetite of UK Governments to maintain the pace of human rights development, based on some of the rhetoric of recent years. I hope that the Scottish Parliament does not vacate the space, and that you can find ways to keep those connections and be a positive force for human rights not just here but across Europe and beyond.

11:15

The Convener: I sit on the Current Affairs Committee of the Council of Europe and I have no

intention of vacating that position until they make me.

Michael Clancy: I happened to be dealing with the EU withdrawal bill yesterday in London—I got the 7 o'clock flight this morning to be here for this meeting—and I have great deal of interest in the topic.

We have promoted amendments in the House of Commons and House of Lords to retain the charter of fundamental rights, and we are quite open that that would be the best way for those rights to be maintained and respected. We have encouraged the UK Government not to amend the bill to a great extent so far, and we will persist with that until consideration of the bill is concluded.

It is important to remember that the bill contains provisions that would allow for the retention of fundamental rights and freedoms, which exist irrespective of the charter. It is not as if the structure of EU law relating to fundamental rights and freedoms is being dismantled in its entirety, and we have to inject a level of perspective into this to recognise what the bill does, as well as what it does not do.

There is no doubt that the removal of the charter from our law will result in an overall diminution of the mechanisms for the recognition of rights, and as we go forward into the transition and implementation period, in terms of all the other arrangements that we will have with the European Union in the future, such as the security treaty or the on-going partnership agreements, we must ensure that these things are maintained. I suspect that we ought to be thinking about how this Parliament looks at those future relationships with not only the EU but the trading partners that we will have around the world, because trade deals can have impacts on human rights. The UN principles on business and human rights have to be acknowledged and we have to think about the application of those principles to trade arrangements.

I have exceeded my time, convener.

The Convener: I ask Helen Martin to be really quick. The committee has some business to conclude in private by 11:30, so we are way past our time limit. The panel is so interesting that we are finding it difficult to stop.

Helen Martin: I will make my points in bullet point form.

For workers' rights, in particular, we are concerned about the loss of the court. The ECJ played a really important role in upholding those rights and we are quite concerned about the loss of its expansion of jurisprudence.

We are concerned about the direction of travel of the UK Government because, over the past few

years, it has unpicked workers' rights that were not nailed down by Europe. For example, there was an extension of the minimum employment period for unfair dismissal claims from one year to two years, and there was also the reduction of consultation rights. Different things that the Government could undo, it undid.

We are concerned about the bonfire of regulations stuff that we hear from the UK Government and what that will mean for workers' rights in the long term. In the short term, we accept that there will, hopefully, be a transposition of rights as they stand at the minute.

We are also concerned about what happens with trade deals and the issue of private justice for private companies. Obviously, that can happen under the European framework, but we think that it will be augmented when we are a small national state concluding trade deals with big countries. We are concerned about, for example, what the US would require of us, and whether those requirements would take away our environmental and workers' rights by proxy in trade deals that are agreed in secret, with state resolution mechanisms in them that mean that you do not even have the normal rule of law to rely on. For us, the question around trade is very big.

In short, we are quite concerned about what will happen to workers' rights after Brexit.

The Convener: Thank you very much, Helen. We have really run out of time now, because we have an important piece of work to agree in private.

The inquiry will be on-going for a number of weeks and we are really keen to hear from you all. If you have a position on Brexit or anything else that you felt that you could not articulate this morning, please let us know. We are really keen to hear everybody's perspective on all those areas, so, if you go away and want to send a wee page, half a page or whatever it is on something that you think that we need to know, I urge you do that. We would be very grateful to receive it. I thank you all for your oral evidence this morning, your written evidence and your on-going work with us on the inquiry.

11:21

Meeting continued in private until 11:32.

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Published in Edinburgh by the Scottish Parliamentary Corporate Body, the Scottish Parliament, Edinburgh, EH99 1SP

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