



Scottish Human Rights Commission  
Submission to the UN Human Rights Council  
NHRI Report on the United Kingdom's Universal Periodic Review  
22 September 2016

The Scottish Human Rights Commission (SHRC) is the National Human Rights Institution (NHRI) for Scotland, accredited with A status by the Global Alliance of NHRIs. SHRC was established by an Act of the Scottish Parliament. It has a general duty to promote awareness, understanding and respect for all human rights and to encourage best practice. SHRC also has a number of powers including recommending such changes to Scottish law, policy and practice as it considers necessary.

SHRC is one of the three NHRIs in the UK. SHRC is a member of the UK's National Preventive Mechanism (NPM) designated in accordance with the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT).

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## Part I. Introduction

### Scope and Methodology

1. The content of the report is informed by information gathered at consultations with NGOs<sup>1</sup>, experts and members of the community as well as evidence-based data, including desk research.<sup>2</sup> The structure of the report follows similar themes to the [Scottish Government's 2014 interim UPR report](#)<sup>3</sup>, with an additional focus on issues of priority for SHRC. Due to space constraints this report does not reflect the full range of SHRC's priorities or areas of concern. The report reflects the Scottish Parliament's [devolved powers](#)<sup>4</sup>, progress made on related human rights issues and further human rights gaps in the implementation of human rights since 2012, such as those in the area of social care.

## Part II. UPR progress and recommendations – including emerging issues since 2012

### Human Rights Framework in Scotland

#### **Ratification of international treaties: UPR recommendations 110.1, 110.5, 110.15-20 and 110.26-29<sup>5</sup>.**

2. There has been no further progress on the ratification of the outstanding international human rights treaties by the State since the interim reports were submitted.<sup>6</sup> There are also a number of outstanding judgements of the European Court of Human Rights to which there have been unacceptable delays in implementation, including *Hirst* and *Greens and MT*.<sup>7</sup>

#### **Application of international instruments in domestic law: UPR recommendation 110.32<sup>8</sup>**

3. The SHRC notes the Scottish Parliament's opposition<sup>9</sup> to the UK Government's proposed repeal of the Human Rights Act.<sup>10</sup> The SHRC opposes any reduction in the current legal protections of human rights and considers that such a step would potentially undermine the Government's accountability for human rights both domestically and internationally.<sup>11</sup>
4. The Scottish Government has not incorporated any of the UN human rights treaties. During evidence to the Scottish Parliament on the Children and Young People Bill, the Scottish Government stated that it was not

supportive of wholesale incorporation, citing lack of evidence as to the value of incorporation.<sup>12</sup> However, the First Minister of Scotland has recently recognised that making international human rights treaties enforceable in domestic law is an important part of the debate in ensuring people's rights are at the heart of government. The Scottish Government has committed to "working with civic Scotland to establish a set of social and economic rights for all of Scotland's citizens."<sup>13</sup> The SHRC welcomes these positive ambitions but notes the lack of concrete progress.<sup>14</sup>

5. SHRC has encouraged the Scottish Government<sup>15</sup> to develop a National Action Plan on Business and Human Rights.<sup>16</sup> The Scottish Government has set out plans for this and a baseline assessment has been produced. While the Scottish Government has taken both legislative and political steps to address climate change, it reduced funding for climate change (mitigation measures) in the 2016-17 budget by £44 million in comparison to the previous year's budget.

### **Contribution of parliaments to the work of the Human Rights Council and its Universal Periodic Review**

6. SHRC has highlighted to the Scottish Parliament the crucial role legislatures play in achieving more effective national implementation of human rights obligations, and the scope for it to increase its contribution to the Human Rights Council and other UN bodies. In line with the 2012 Belgrade Principles, SHRC has begun work on strengthening its cooperation with the Parliament<sup>17</sup>.

### **National Human Rights Institutions: Recommendations 110.36 - 110.37<sup>18</sup>**

7. The SHRC maintained its 'A' status accreditation in accordance with the UN Paris Principles<sup>19</sup> following its five year periodic review in 2015.<sup>20</sup> The International Coordinating Committee's Sub-Committee on Accreditation (SCA) noted the 15 per cent budget reduction since 2012.<sup>21</sup> It recommended the allocation of additional funding in the event of any expansion in the SHRC's remit related to the granting of further devolved powers.<sup>22</sup>

### **National Action Plan on Human Rights: Recommendation 110.46<sup>23</sup>**

8. Scotland's *National Action Plan on Human Rights 2013-17* (SNAP)<sup>24</sup> brings together the Scottish Government with civil society, the SHRC and others to collaboratively further the implementation of human rights. For the ambition of SNAP to be realised, it is important that the Scottish Government demonstrate sustained commitment and provide adequate resources to support the full implementation of the SNAP commitments.
9. The SHRC would like to see systematic monitoring and reporting of progress towards the full realisation of human rights embedded into national monitoring frameworks.<sup>25</sup>

#### **Recommendations:**

1. That the UK retains the Human Rights Act 1998.
2. That the UK ratifies and incorporates all human rights treaties without reservation, including individual communications procedures.
3. That the Scottish Government strengthens the enforceability of international human rights treaties domestically.
4. That the Scottish Parliament ensures SHRC has adequate funding to enable it to comply with its functions in accordance with the Paris Principles.
5. That the Scottish Parliament increases its ability to act as a human rights guarantor.

6. That the Scottish Government fully implements and resources Scotland's National Action Plan for Human Rights, in particular through human rights monitoring in its National Performance Framework.
7. That the Scottish Government takes steps towards a Scotland's National Performance Framework that incorporates SNAP, UPR/international treaty recommendations and the UN Sustainable Development Goals.

## Gender Equality

### **Support for women's rights: recommendations 110.40, 110.52<sup>26</sup>110.62, 110.63, 110.64<sup>27</sup>**

10. There is significant gender segregation in relation to employment in Scotland, reflected in the pay difference between men and women and in the nature of the employment and training undertaken.<sup>28</sup> In 2015, the overall gender pay gap stood at 14.8%.<sup>29</sup> Employment opportunities available to women are more likely to be informal, temporary and part-time work.<sup>30</sup> Almost a fifth of the Scottish workforce is paid below the living wage, and 64% of these workers are women.<sup>31</sup> Furthermore, disabled women are less likely to be employed and experience a much higher pay gap than other women.<sup>32</sup>
11. Women continue to face a range of gendered structural barriers to private and political participation and are consequently significantly under-represented at senior and management levels across the labour market.<sup>33</sup> The percentage of female Members of the Scottish Parliament has remained unchanged in recent years<sup>34</sup> with no increase following the 2016 general election.<sup>35</sup>
12. Scotland has amongst the highest childcare costs in the UK, and the UK one of the highest in the world. SHRC welcomes the commitment to increase the number of free childcare hours to 1,140 hours by 2020.<sup>36</sup> However such commitment does not provide for wrap-around childcare.<sup>37</sup>

### **Violence against women: recommendations 110.51, 110.69, 110.70, 110.71<sup>38</sup>**

13. Scottish Government has taken steps to address violence against women<sup>39</sup>, including by granting additional funding to ensure that victims will "have the confidence to report crime."<sup>40</sup> In 2014, despite an increase in reported domestic abuse incidents in Scotland,<sup>41</sup> just over half resulted in a crime or offence.<sup>42</sup> The EU Victims Directive identifies the issue of under-reporting<sup>43</sup> and directs Member States to establish "a robust system for data and statistics collection"<sup>44</sup>, including disaggregated data to better develop and target adequate responses.

8. That the UK introduces targeted measures to reduce the gender pay gap and improves women and other socially diverse groups' representation in public life.
9. That the Scottish Government implements the Istanbul Convention on preventing and combating violence against women.

## Children's Rights

### **Incorporation of UN Convention on the Rights of the Child (UNCRC): recommendations 110.9 - 110.10<sup>45</sup>**

14. Positive steps have been taken to promote children rights in Scotland, e.g. Scottish Ministers are statutorily required to consider the rights under the UNCRC in any action they take.<sup>46</sup> Since June 2015, children's rights and wellbeing impact assessments must be conducted to ensure compliance with the

legislation.<sup>47</sup> However, these steps remain far from the duty on the State Party to ensure implementation of UNCRC.<sup>48</sup>

#### **Child poverty: recommendation 110.41<sup>49</sup>**

15. Despite government actions to reduce child poverty in Scotland,<sup>50</sup> more than 20 per cent of children are living in poverty and this is expected to increase further by 2020.<sup>51</sup> Food poverty is also rising significantly.<sup>52</sup> The *Child Poverty Strategy 2014-17* is a welcome development but is limited in scope as it applies only to devolved powers and local authorities are under no statutory duty to implement it or report on their progress.

#### **Corporal punishment: recommendations 110.78, 110.79 and 110.80<sup>53</sup>**

16. Corporal punishment has not been abolished in Scots law and the defence of "justifiable assault" remains available to parents.<sup>54</sup>

#### **Inclusive education: recommendations 110.66 and 110.106<sup>55</sup>**

17. In England there is a statutory duty to ensure all young people remain in some form of education or training until the age of 18. There is no such corollary duty in Scotland. Furthermore, there is no equivalent statutory duty in Scotland which secures education for children in detention.<sup>56</sup>
18. There remain a high number of young people<sup>57</sup> who are not currently in education, employment or training.<sup>58</sup> For example, 16-24 year olds are five times more likely to be unemployed compared to those aged 55-64.<sup>59</sup>
19. The attainment gap between children from low-income and high-income households is 10–13 months by aged 5 and by ages 12–14, pupils from better-off areas are more than twice as likely as those from the most deprived areas to do well in numeracy.<sup>60</sup> Children with additional support needs are less likely to progress to a "positive follow-up destination" when compared to those without.<sup>61</sup>
20. Overall school exclusions have decreased considerably.<sup>62</sup> While the Government has committed to collating evidence to monitor expulsions,<sup>63</sup> the level of expulsions of children requiring additional support and those who live in deprived areas remains significantly higher than the general school population.<sup>64</sup>

#### **Minimum age of criminal responsibility: recommendations 110.94 and 110.95<sup>65</sup>**

21. Scotland continues to have the lowest minimum age of criminal responsibility in Europe.<sup>66</sup> In 2016, the Scottish Government conducted an impact assessment on increasing the minimum age of criminal responsibility from 8 to 12 years.<sup>67</sup>

Recommendations - that the Scottish Government:

10. Provides a human rights compliant framework to address child poverty, abolish corporal punishment, promote inclusive education and close the attainment gap.

11. Increases the minimum age of criminal responsibility beyond the minimum international standard of 12.

## Race, Religion and Belief

### **Race equality: recommendations 110.11, 110.53, 110.59 and 110.107<sup>68</sup>**

22. In March 2016, the Scottish Government published its *Race Equality Framework for Scotland 2016-2030*<sup>69</sup>, having had no policy in place for five years.<sup>70</sup> While the Framework addresses a wide range of issues impacting on minorities, there is a concern that ‘invisible minorities’ or individuals experiencing multiple forms of discrimination are not adequately considered in the framework.<sup>71</sup>

### **Travellers/Roma: recommendations 110.117<sup>72</sup>**

23. Scottish Gypsy/Travellers continue to experience discrimination<sup>73</sup> and poorer outcomes in health, education and employment.<sup>74</sup> Negative media portrayals<sup>75</sup> about the community persist.<sup>76</sup> In 2015, the Scottish Government published guidance on minimum standards for halting sites and tenants’ rights and responsibilities and later that year the Scottish Housing Regulator conducted a thematic inquiry on the implementation of the guidance across the 29 official sites in Scotland.<sup>77</sup> The report highlighted some positive practices that exist but indicated varying degrees of satisfaction with site conditions, as well as clear disparities in the pitch rents.<sup>78</sup>

### **Detention of asylum seekers and migrants: recommendations 110.111-115<sup>79</sup>**

24. The challenges facing asylum seekers in Scotland in accessing just decision-making, an adequate standard of living and fair and equal access to work, housing and health care remain significant. SHRC remains concerned about the detention of persons with poor mental health<sup>80</sup> in Dungavel Immigration Removal Centre (IRC),<sup>81</sup> and notes recent protests calling for the centre’s closure.<sup>82</sup> Recently, the Home Office have announced that Dungavel will close at the end of 2017 and be replaced by a short-term holding centre in Glasgow. SHRC has long been concerned about the excessive length of immigration detention, which is often not delimited by appropriate authority. SHRC as part of the UK NPM has called for a statutory time limit on the duration of immigration detention.

#### Recommendations - that the Scottish Government:

12. Implements a Race and Equality Framework with a wider participation approach for the national and local development of laws, policies and programmes.
13. Adopts a comprehensive implementation plan, consistent with international human rights standards, to reconcile the human rights of Gypsy/Travellers and settled communities.
14. That the UK sets a statutory time limit for immigration detention and judicial oversight of detention.

## Social care

### **Self-directed Support (SDS)**

25. The Social Care (Self-directed Support) (Scotland) Act 2013 aims to empower disabled people<sup>83</sup> to have more control and choice in obtaining good quality care.<sup>84</sup> A recent audit of local authorities’ progress in implementing SDS concluded that local authorities still have a substantial amount of work to do to fully implement SDS and recommended that they should work more closely with people who need support to develop their choices.<sup>85</sup> In 2014/15, the Mental Welfare Commission noted a significant increase in

welfare guardianships granted for individuals with a learning disability, particularly those aged 16-24, which it links to the roll-out of Self-Directed Support in many local authorities.<sup>86</sup> SHRC is concerned that the legislation may, in practice, have the unintended consequence of restricting choice and control.

### **Social care charging**

26. Disabled people in particular experience a significant burden from locally varying policies on charging for social care. From 2008 to 2011 the income that Scottish local authorities have generated from charging disabled people for social care services has increased by 15 per cent from £15.4 million per year to £18.2 million per year.<sup>87</sup> The Shared Ambition on the Future of Social Care Support in Scotland calls for the urgent establishment of a national independent Commission to explore the development of new approaches to funding as demand rises.<sup>88</sup>

Recommendation – that the Scottish Government:

15. Ensures local authorities provide adequate support for people to exercise choice and control in accessing the care and support they require.

16. Address gaps in the implementation of self-directed support to ensure choice and control is realised in practice.

17. Urgently establishes a national independent Commission on social care funding.

## **Justice and Security**

### **Rights in detention: recommendations 110.81 – 89<sup>89</sup>**

27. Fifteen per cent of the prison population in Scotland is currently detained while awaiting trial.<sup>90</sup> Overcrowding remains a concern,<sup>91</sup> as does the mental health of prisoners and their access to treatment.<sup>92</sup> The Mental Welfare Commission for Scotland, SHRC and the Scottish Prison Service, has expressed concerns about the mental health of women prisoners<sup>93</sup> whom they view as particularly vulnerable.<sup>94</sup> We welcome government commitment to develop five community-based custodial units for women,<sup>95</sup> but more needs to be done in terms of alternative means to custody, rehabilitation and mental health treatment.

### **Hate crimes: recommendations 110.160, 110.190 and 110.191<sup>96</sup>**

28. Efforts have been made to tackle both hate crime<sup>97</sup> and sectarianism.<sup>98</sup> Of the hate crimes reported to the Procurator Fiscal in 2014-15, racist hate crime was the most common with 3,785 charges brought and 569 religiously-motivated hate crimes reported.<sup>99</sup> Under-reporting of all hate crime<sup>100</sup> remains a particular concern.<sup>101</sup> Furthermore, current data collection methods do not provide an accurate measurement of hate crime in Scotland<sup>102</sup> and the introduction of third party reporting has not resulted in a marked increase in indirect reporting.<sup>103</sup>

## **Human Trafficking: recommendations 110.72-76<sup>104</sup>**

29. Despite legislative and policy measures to address trafficking,<sup>105</sup> very few suspected traffickers have been prosecuted with only six convictions to date.<sup>106</sup> Furthermore, evidence indicates that individuals continue to be prosecuted for offences committed whilst victims of human trafficking.<sup>107</sup> In 2015, 145 potential victims of trafficking in Scotland were referred to the National Referral Mechanism (NRM), a 31 per cent increase on 2014 figures.<sup>108</sup> Of these, 29 per cent were children.<sup>109</sup> While the majority of potential victims were referred by government agencies or the police,<sup>110</sup> there is a concern that staff members in Dungavel IRC require additional training on trafficking indicators and on the NRM.<sup>111</sup>

### Recommendations - that the Scottish Government:

18. Ensures that places of detention comply, at a minimum, with the protection of rights provided by international law, including access to adequate health services.
19. Increases and promotes the use of alternatives to detention and rehabilitation and reintegration of the offender.
20. Prioritises and implements adequate training for all relevant personnel to recognise potential victims of human trafficking and increases awareness of the NRM.
21. Improves data collection on hate crime and sectarianism and develops participatory measures to combat racist hate crimes and strengthens support services for victims.

## **Economic and Social Rights**

### **Social protection and Welfare reform: recommendation 110.101 and 110.102<sup>112</sup>**

30. The impact of austerity measures in the form of cuts and changes to eligibility criteria for social security payments has disproportionately impacted particularly on vulnerable groups, including people with disabilities,<sup>113</sup> children,<sup>114</sup> lone parents<sup>115</sup>, women<sup>116</sup> and young people under 25.<sup>117</sup> Minority Ethnic households will be particularly impacted by the Benefit Cap<sup>118</sup> due to the higher incidence of larger families within this cohort.<sup>119</sup>
31. In 2016, further social security, taxation and borrowing powers were devolved to the Scottish Parliament.<sup>120</sup> The Scottish Government has committed to mitigate certain austerity measures using these powers and is consulting on how to use these powers more widely to achieve social justice.<sup>121</sup>

### **Right to work and fair conditions of work: recommendation 110.101 and 110.102<sup>122</sup>**

32. Inequalities persist in the extent to which people can enjoy equal access to work and fair conditions of work. While Scottish employment figures have improved overall, the latest statistics indicate a decrease in the first quarter of 2016.<sup>123</sup> The quality of available work has been called into question via Parliamentary Inquiries into underemployment and wages and wellbeing.<sup>124</sup> Zero hour contracts and low pay persist.<sup>125</sup> Ethnic minorities,<sup>126</sup> Gypsy/Travellers,<sup>127</sup> migrant workers,<sup>128</sup> refugees<sup>129</sup> and people with disabilities<sup>130</sup> continue to face particular difficulties in accessing quality employment.
33. SHRC is concerned that the UK's minimum wage structure only applies for those over 25 years old. The Scottish Government should monitor the impact of the National Living Wage on young people.



### **Housing: recommendation 110.103<sup>131</sup>**

34. Lack of access to appropriate housing<sup>132</sup> particularly impacts migrants,<sup>133</sup> young people under 25,<sup>134</sup> persons with disabilities<sup>135</sup> and people leaving institutions.<sup>136</sup> While the abolition in 2016 of the 'right to buy'<sup>137</sup> will prevent any future depletion of the social housing stock, these measures will not immediately address the urgent need of social housing applicants, including people living in temporary accommodation.<sup>138</sup>
35. The Scottish Government's commitment to build 50,000 affordable houses over the next five years falls short of the 60,000 recommended by housing organisations.<sup>139</sup>
36. Regulation and monitoring of the Scottish social housing stock has been strengthened but requires further tenant participation and scrutiny to secure improvements to housing conditions and to ensure accountability for the realisation of the right to adequate housing.<sup>140</sup>

### **Health: recommendation 110.103<sup>141</sup>**

37. Health inequalities in Scotland persist, resulting in a 23 year gap in healthy life expectancy between the richest and poorest areas.<sup>142</sup> Ethnic minority individuals,<sup>143</sup> Gypsy/Travellers,<sup>144</sup> Roma people<sup>145</sup> and persons with disabilities<sup>146</sup> continue to experience poorer health and greater difficulties in accessing services - a gap between policy and implementation at local level remains.<sup>147</sup>
38. Mental health treatment and service provision continues to be inadequate. The higher prevalence of mental health issues for women,<sup>148</sup> young people and those living in deprived areas,<sup>149</sup> along with the much higher suicide rate in those areas,<sup>150</sup> is of particular concern.<sup>151</sup> The majority of Health Boards in Scotland have failed to meet a 2014 target of ensuring access to psychological therapies within 18 weeks.<sup>152</sup> 2015 statistics show the highest level rise in compulsory treatment since 2005, particularly for older people.<sup>153</sup> The Scottish Mental Health Partnership and the Rights for Life movement have called for root and branch review of the support offered to people with mental health issues, carried out by an independent Commission of enquiry.<sup>154</sup>

#### Recommendations - that the Scottish Government:

22. Ensures a rights based approach is taken to policy- making and spending decisions that affect vulnerable groups, including cumulative and participatory budget and impact assessments, the review of the use of sanctions, and the provision of appropriate protective remedies against the negative impact of austerity.
23. And the Scottish Parliament use a human rights based approach in their exercise of new powers devolved to Scotland in relation to social security, taxation and borrowing.
24. Takes a rights based approach to the development of their ten year mental health strategy.

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## References

- <sup>1</sup> A survey was sent to a range of stakeholders in May 2016. Thirteen civil society organisations sent comments or written submissions to the SHRC. The Commission also hosted a UPR event with civil society in August 2016 to inform them about the UPR process and to gather their views on priority issues to be addressed.
- <sup>2</sup> SHRC would like to acknowledge the key contribution of Saoirse Brady for this Submission.
- <sup>3</sup> UK Government (2014) *UN Universal Periodic Review Mid-Term Report of the UK*; Scottish Government (2014) *Universal Periodic Review: Scottish Government Mid-Term Report*.
- <sup>4</sup> Under the terms of the Scotland Act 1998 all issues which are not explicitly reserved to the UK Parliament in Westminster are devolved to the Scottish Parliament including issues such as justice, health and social care, education and training as well as many aspects of transport and environment. While some of the UPR recommendations refer specifically to powers reserved to the UK Government, or to specific circumstances in other devolved nations, where an issue is similar or a relevant position exists in relation to Scotland, this is reflected in the current report.
- <sup>5</sup> These recommendations include calls to ratify the OP-ICCPR, OP-ICESCR and the UNCRC Optional Protocol No. 3 as well as the Convention for the Protection of All Persons from Enforced Disappearance, the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families ILO Convention No. 189 on Domestic Workers Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence.
- <sup>6</sup> The UK has ratified 13 of the 18 international human rights treaties and optional protocols.
- <sup>7</sup> The failure to amend the law in response to the Court's finding of a violation in relation to the UK's ban on prisoner voting (*Hirst and Greens and MT*).
- <sup>8</sup> Qatar recommended that the State "continue to ensure that human rights principles are integrated in domestic laws".
- <sup>9</sup> Motion passed by the Scottish Parliament on 11 November 2014; statement by the Cabinet Secretary for Social Justice, Communities and Pensioners' Rights in the Scottish Government, Alex Neill MSP, on 15 May 2015.
- <sup>10</sup> In February 2016, Prime Minister David Cameron indicated to the Westminster Parliament that the UK Government would shortly develop proposals to change Britain's position with respect to the European Court of Human Rights by having our own British Bill of Rights'. Prime Minister David Cameron, Commons Debate, 3 February 2016:  
[http://www.publications.parliament.uk/pa/cm201516/cmhansrd/cm160203/debtext/160203-0002.htm#160203-0002.htm\\_spmi2](http://www.publications.parliament.uk/pa/cm201516/cmhansrd/cm160203/debtext/160203-0002.htm#160203-0002.htm_spmi2).
- <sup>11</sup> Scottish Human Rights Commission (2015) Changing Human Rights Laws – FAQs,  
<http://www.scottishhumanrights.com/resources/reports/HRAFAQs>
- <sup>12</sup> Official Report, Education and Culture Committee, 25 June 2013, col 2644  
<http://www.parliament.scot/parliamentarybusiness/28862.aspx?r=8457&mode=pdf>  
"Ministers are not supportive of wholesale incorporation of the convention—of lifting the convention in its entirety and dropping it directly into Scots law. They do not feel that that would necessarily take us forward from where we are at the moment. Very little evidence has been shared with ministers that sets out the benefits of taking that approach, and the limited evidence that we have seen suggests that benefits lie primarily in relation to improved culture within services and increased awareness of children's rights. We want to deliver those benefits, but we do not think that wholesale incorporation necessarily represents the best and most effective way of going about that."
- <sup>13</sup> First Minister May 2016, Priorities speech- Taking Scotland Forwards- <http://news.scotland.gov.uk/Speeches-Briefings/Priorities-speech-Taking-Scotland-Forward-24f8.aspx>
- <sup>14</sup> The SHRC has made clear recommendations on how ESC rights can be further incorporated, recognised and enforced in Scots law including through a pre-legislative scrutiny process to be conducted by a parliamentary committee with access to judicial review in the event of a violation. See K. Boyle (2015) *Economic, Social and Cultural Rights in Scotland*, Edinburgh: Scottish Human Rights Commission, pp. 33 – 34.
- <sup>15</sup> In 2015, the Scottish Government (and SNAP Better World Action Group) commissioned research to establish a baseline for Scotland's position in relation to business and human rights which is due to be completed in August 2016.
- <sup>16</sup> As part of its commitments under the SNAP, the Scottish Government is funding research "to develop an evidence base for an Action Plan on Business and Human Rights" which will "build on international best practice and will help shape an action plan to support businesses in Scotland to improve their approach to human rights, in line with principles developed by the United Nations". SHRC (2015) *SNAP: Scottish National Action Plan Year Two Report*, Edinburgh: Scotland, p. 28.
- <sup>17</sup> For example, on legislation, engagement with human rights mechanisms; education, training and awareness raising.
- <sup>18</sup> Costa Rica recommended that the State "Adopt measures necessary to ensure the independence of the Commissioners in accordance with the Paris Principles" and Morocco called on the State to "[e]nsure that the reform process of the Equality and Human Rights Commission does not affect its independence in conformity with the Paris Principles".
- <sup>19</sup> United Nations, *Principles relating to the Status of National Institutions (The Paris Principles)*, adopted by General Assembly Resolution 48/134 of 20 December 1993.

- <sup>20</sup> International Coordinating Committee's Sub-Committee on Accreditation (2015) *Report and Recommendations of the Session of the Sub-Committee on Accreditation (SCA) – Geneva, 16 – 20 March 2015*, Geneva: OHCHR.
- <sup>21</sup> International Coordinating Committee's Sub-Committee on Accreditation (2015) *Report and Recommendations of the Session of the Sub-Committee on Accreditation (SCA) – Geneva, 16 – 20 March 2015*, Geneva: OHCHR, pp. 17 – 20. This is in addition to previous cuts noted by the SHRC during the previous UPR cycle.
- <sup>22</sup> International Coordinating Committee's Sub-Committee on Accreditation (2015) *Report and Recommendations of the Session of the Sub-Committee on Accreditation (SCA) – Geneva, 16 – 20 March 2015*, Geneva: OHCHR, pp. 17 – 20
- <sup>23</sup> Iran recommended the State to “[a]dopt and implement a concrete plan of action realizing recommendations of treaty bodies and UN human rights mechanisms, and international human rights obligations. Scotland is the only nation in the UK to have adopted a national action plan on human rights.
- <sup>24</sup> Scottish Human Rights Commission (2013) *Scotland's National Action Plan for Human Rights*, Edinburgh: SHRC, available at <http://scottishhumanrights.com/actionplan>. The Scottish National Action Plan on Human Rights (SNAP) was launched on 10 December 2013 through a collaborative process facilitated and led by the SHRC. The collaborative process involved a wide variety of stakeholders from governmental agencies, public bodies and civil society which is essential in determining the extent of the State's commitment to implementing the objectives of the plan. The SNAP clearly draws on the methodology and indicators framework devised by the OHCHR.
- <sup>25</sup> “We should integrate our performance framework with the sustainable development goals and the action plan.” First Minister Nicola Sturgeon, Dynamic Earth, Edinburgh, 9 December 2015
- <sup>26</sup> Indonesia recommended that the State “[c]ontinue efforts in the promotion of women rights” while Uzbekistan recommended that it “[g]ive priority attention to the questions of gender equality and discrimination against women”.
- <sup>27</sup> Sudan, India and Algeria recommended that the State take steps to address the gender pay gap and encourage equal pay policies.
- <sup>28</sup> See SHRC report to ICESCR 2016 available at <http://scottishhumanrights.com/resources/policy submissions/icescr2016>
- <sup>29</sup> Close the Gap data available at <https://www.close.thegap.org.uk/content/gap-statistics/> see also Scottish Government, Gender Pay Gap Narrows, press release, 18 November 2015 at <http://news.scotland.gov.uk/News/Gender-pay-gap-narrows-1f69.aspx> [accessed on 22 March 2016]. The gender gap in Scotland fell below the UK average of 9.4 per cent
- <sup>30</sup> The Scottish Government *National Performance Framework* commits to reducing the gender pay gap, available at <http://www.gov.scot/Resource/0049/00497339.pdf> [accessed 21 March 2016].
- <sup>31</sup> KPMG (2014): *Structural Analysis of Hourly Wages and Current Trends in Household Finances* <https://www.kpmg.com/UK/en/IssuesAndInsights/ArticlesPublications/Documents/PDF/Latest%20News/living-wage-research-october-2014.pdf> accessed July 2015
- <sup>32</sup> In 2010, the Equality and Human Rights Commission found that between disabled women and non-disabled men there is an average pay gap of 22 per cent and between disabled women and disabled men, the gap is 11 per cent
- <sup>33</sup> The gender balance is worse in the private sector with only 24% of FTSE board directors, and just 8.6% of executive directors being women.
- <sup>34</sup> In a 2016 report by Engender, it noted that only 24 per cent of local council seats are held by women. See: Engender (2016) *Equal Voice, Equal Power: The Case for Gender Quotas in Scotland*, Edinburgh: Engender.
- <sup>35</sup> <https://scottishparliamentinformationcentre.org/2016/05/11/what-is-the-gender-balance-of-the-new-parliament/>
- <sup>36</sup> Scottish Government (2015) *A Stronger Scotland: The Government's Programme for Scotland 2015-16*, Edinburgh: Scottish Government
- <sup>37</sup> SHRC report to ICESCR 2016 available at <http://scottishhumanrights.com/resources/policy submissions/icescr2016>
- <sup>38</sup> Cuba called on the State to “[c]ontinue efforts to combat discrimination on any ground and violence against women and girls”, Brazil recommended that it “[a]dopt a national strategy to combat all forms of violence against women and girls”, Colombia to “[c]ontinue making progress in implementing the Action Plan on violence against women and girls” while Malaysia recommended the State to “[t]ake more effective measures to combat all forms of violence against women and girls and to ensure that the perpetrators of violence are taken to justice and punished”.
- <sup>39</sup> Scottish Government (2014) *Equally Safe: Scotland's strategy for preventing and eradicating violence against women and girls*, Edinburgh: APS Group Scotland. It aims to address “all forms of violence against women and girls: domestic abuse, rape and sexual assault, sexual harassment and intimidation at work and in public; stalking; commercial sexual exploitation such as prostitution, pornography and human trafficking; dowry-related violence; female genital mutilation (FGM); forced marriage; and so-called ‘honour’ based violence”. SHRC (2015) *Abusive Behaviour and Sexual Harm (Scotland) Bill: Submission to the Justice Committee - Scottish Parliament, November 2015*, Edinburgh: SHRC. The legislation seeks to address certain types of abusive behaviour including the non-consensual sharing of intimate photographs but must strike a balance between the protection of freedom of expression under Article 10 of the ECHR and the right to privacy under Article 8 of the ECHR.
- <sup>40</sup> Scottish Government, ‘Domestic Abuse Statistics Published’, [press release], 27 October 2015, <http://scottishgovernment.presscentre.com/News/Domestic-abuse-statistics-published-1ea3.aspx>.
- <sup>41</sup> Police in Scotland, *Domestic Abuse Recorded by the Police in Scotland, 2012-13 & 2014-15*, available at [www.gov.scot/Publications/2015/10/8859/2](http://www.gov.scot/Publications/2015/10/8859/2). The 2014-15 figures recorded almost 60,000 incidents, a 2.5 per cent increase on the previous year. In 79 per cent of cases, a male perpetrator directed the abuse towards a female victim; in 18 per cent of cases involved a female perpetrator and male victim while the remainder represented same gender victim and perpetrator. The Police Service of

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Scotland and the Crown Office & Procurator Fiscal Services' Joint Protocol, *In Partnership, Challenging Domestic Abuse* defines domestic abuse as "any form of physical, sexual or mental and emotional abuse which might amount to criminal conduct and which takes place within the context of relationship. The relationship will be between partners (married, cohabiting, civil partnerships or otherwise) or ex-partners. The abuse can be committed in the home or elsewhere".

<sup>42</sup> Scottish Government, Domestic Abuse Recorded by the Police in Scotland, 2013-14 & 2014-15, available online at <http://www.gov.scot/Publications/2015/10/8859/2>.

<sup>43</sup> According to a large-scale survey on the public perception of crime and justice in Scotland, only 21 per cent of domestic abuse incidents are reported to the police. See: S. McQueen (2014) 2012/13 Scottish Crime and Justice Survey: Partner Abuse, Edinburgh: Government Social Research, p. 30. The reasons provided by respondents for the low reporting incidence included that the incident was "too trivial", was a "private, personal or family matter" or "dealt with matter my/ourselves", pp.34 – 35.

<sup>44</sup> Directive 2012/29/EU of the European Parliament and of the Council of 25 October 2012 establishing minimum standards on the rights, support and protection of victims of crime, and replacing Council Framework Directive 2001/220/JHA available at [ec.europa.eu/justice/criminal/files/victims/guidance\\_victims\\_rights\\_directive\\_en.pdf](http://ec.europa.eu/justice/criminal/files/victims/guidance_victims_rights_directive_en.pdf) [accessed 22 March 2016].

<sup>45</sup> Slovakia recommended that the State "incorporate fully, as a matter of urgency, the principles and provisions of the CRC into domestic law". France recommended that it "Take all measures necessary to fully implement the CRC".

<sup>46</sup> The Children and Young People (Scotland) Act 2014 requires Ministers to take "any steps which they could take which would or might secure better or further effect in Scotland of the UNCRC requirements" and take those steps if appropriate. Under the provisions of the legislation, Ministers and public bodies must publish a report of their actions every three years. However, it is not possible yet to determine the impact that this duty will make in real terms.

<sup>47</sup> The legislation contains eight wellbeing indicators, the majority of which can be mapped to the rights contained in the UNCRC. These include: safe; healthy; achieving; nurtured; active; respected; responsible and included.

<sup>48</sup> The Commissioner for Children and Young People Scotland

<sup>49</sup> Norway called on the State to "[s]et out a clear pathway to meet the goal of ending child poverty in the UK by 2020 as stated in the Coalition's programme for government".

<sup>50</sup> Child Poverty Act 2010.

<sup>51</sup> More than one in five (220,000) of Scotland's children were officially recognised as living in poverty in 2012/2013 and this figure is set to increase to nearly one in three by 2020. Save the Children (2014) A Fair Start for Every Child in Scotland. [www.savethechildren.org.uk/.../online-library/fairstart-every-child](http://www.savethechildren.org.uk/.../online-library/fairstart-every-child).

<sup>52</sup> Nourish Scotland in its ICESCR shadow report has described the impact of welfare reform as "an all-out assault on the right to an adequate standard of living, impacting most intensely the right to food". See also: F Douglas et al, [The nature and extent of food poverty](#) (NHS Health Scotland, 2015); Trussell Trust, [Foodbank use remains at record high – press release](#) (Trussell Trust, 2016).

<sup>53</sup> Sweden recommended that the State "[r]econsider its position about the continued legality of corporal punishment of children, Norway called for it to "[t]ake measures to ensure the freedom of children from physical punishment in accordance with the Convention on the Rights of the Child and Finland called on the State to "[i]ntroduce a ban on all corporal punishment of children as recommended by the CRC and other treaty bodies.

<sup>54</sup> Section 51 of the Criminal Justice (Scotland) Act 2003. The Scottish Commissioner for Children and Young People in partnership with NSPCC Scotland, Barnardo's Scotland and CHILDREN 1<sup>ST</sup>, published 'Equally Protected? A review of the evidence on the physical punishment of children' to provide further evidence in support of legal reform to provide children with equal protection from assault.

<sup>55</sup> Morocco and Costa Rica made recommendations on ensuring non-discrimination in education with Costa Rica calling on the State to "[a]dopt a strategy so that children of vulnerable groups are not excluded from the education system".

<sup>56</sup> In England and Wales, there is section 40 of the Apprenticeships, Skills, Children and Learning Act 2009

<sup>57</sup> See <http://news.scotland.gov.uk/News/-60-million-to-boost-youth-employment-2289.aspx>

<sup>58</sup> Education Working For All! Commission for Developing Scotland's Young Workforce, p.14, available at <http://www.gov.scot/Resource/0045/00451746.pdf>

<sup>59</sup> ONS (2013) Scottish Surveys Core Questions 2013: An official statistics publication for Scotland: People, Communities and Places, Edinburgh.

<sup>60</sup> "Closing the Attainment Gap in Scottish Education", Edward Sosu and Sue Ellis, Joseph Rowntree Foundation, May 2014

<sup>61</sup> In 2014/15, 85.7% of children with additional support needs went on to a positive follow-on destination, as compared to 93.6% of those without (7.9% gap). Scottish Government Summary statistics for attainment, leaver destinations and healthy living, 22 June 2016, at Table 3

<sup>62</sup> Total school exclusions have fallen from 21,955 in 2012-13 to 18,430 in 2014-15. See *Summary statistics for schools in Scotland No 6: 2015 Edition*, Scottish Government National Statistics: <http://www.gov.scot/Resource/0049/00490590.pdf>.

<sup>63</sup> Scottish Government (2016) *National Improvement Framework for Scottish Education*, Edinburgh: Scottish Government. Available at <http://www.gov.scot/Resource/0049/00491758.pdf>.

<sup>64</sup> The Scottish Government in its most recent statistics highlights that "[t]he exclusion rate per 1,000 pupils, for pupils who have an additional support need, is more than 4 times higher than those who have no additional support needs. Deprivation also plays an important factor in the likelihood of exclusion. Rates of exclusions per 1,000 pupils are more than 6 times greater for pupils living in the

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20 per cent of areas associated with most deprivation, compared with pupils living in the 20 per cent associated with least deprivation". *Summary statistics for schools in Scotland No 6: 2015 Edition*, Scottish Government National Statistics, p. 25.

<sup>65</sup> Belarus recommended: "Consider the possibility of raising the minimum criminal age and refrain from the practice of keeping children in custody".

<sup>66</sup> The number of children referred to hearings fell from 5,336 in 2011-12 to 2,891 in 2014-15. While the number of children aged 8-11 years fell from 496 in 2011-12 to 215 in 2014-15.

<sup>67</sup> Scottish Government (2016) *Child Rights and Wellbeing Assessment on Raising the Minimum Age of Criminal Responsibility*, available at [https://consult.scotland.gov.uk/youth-justice/minimum-age-of-criminal-responsibility/supporting\\_documents/CRWIA.pdf](https://consult.scotland.gov.uk/youth-justice/minimum-age-of-criminal-responsibility/supporting_documents/CRWIA.pdf).

<sup>68</sup> Algeria, China, Turkey and Bangladesh all made recommendation calling on the State to take steps to address racial discrimination and inequality.

<sup>69</sup> Scottish Government (2016) *Race Equality Framework for Scotland 2016–2030*, Edinburgh: Scottish Government, <http://www.gov.scot/Publications/2016/03/4084/0>

<sup>70</sup> The Race Equality Statement lapsed in 2011

<sup>71</sup> M. Liinpää (2013) *Invisible Difference and 'Race Equality' in Scotland: Problems, Challenges and the Way Ahead*, BEMIS and University of Glasgow, available online at [http://bemis.org.uk/documents/Invisible\\_minorities\\_-\\_Executive\\_Summary\\_and\\_Outline\\_Review.pdf](http://bemis.org.uk/documents/Invisible_minorities_-_Executive_Summary_and_Outline_Review.pdf)

<sup>72</sup> Hungary recommended that the State "[s]hare best practices of tackling the situation of the Roma and Traveller people through the EU Framework for National Roma Integration Strategies adopted in 2011".

<sup>73</sup> Scottish Government (2015) *Analysis of Equality Results from the 2011 Census - Part 2*, Edinburgh: Scottish Government, <http://www.gov.scot/Publications/2015/03/8716/3>.

<sup>74</sup> See Scottish Parliament Committee's report 'Where Gypsy/Travellers Live' at [http://www.scottish.parliament.uk/S4\\_EqualOpportunitiesCommittee/Reports/eor-13-01w.pdf](http://www.scottish.parliament.uk/S4_EqualOpportunitiesCommittee/Reports/eor-13-01w.pdf) and Scottish Government (2015) *Analysis of Equality Results from the 2011 Census - Part 2*, Edinburgh: Scottish Government, <http://www.gov.scot/Publications/2015/03/8716/3>.

<sup>75</sup> The 2014 European Commission report on the implementation of the EU framework for National Roma Integration Strategies urges the British Government to monitor the impact of measures designed to integrate Roma people and facilitate dialogue with Gypsy/Traveller communities. European Commission – Directorate-General for Justice (2014) Report on the implementation of the EU framework for National Roma Integration Strategies, Belgium: European Union, [http://ec.europa.eu/justice/discrimination/files/roma\\_implementation\\_strategies2014\\_en.pdf](http://ec.europa.eu/justice/discrimination/files/roma_implementation_strategies2014_en.pdf).

<sup>76</sup> Article 12 in Scotland (2015) On-Line Media Audit, Year 4: 1<sup>st</sup> April 2014 – 30<sup>th</sup> September 2014 available at <http://www.article12.org/wp-content/uploads/2015/08/YGTL-Y4-Audit-July-2015.pdf>.

<sup>77</sup> Scottish Housing Regulator (2015) *Gypsy/Travellers in Scotland: A Thematic Inquiry*, Glasgow: Scottish Housing Regulator, see: <https://www.scotishhousingregulator.gov.uk/sites/default/files/publications/GypsyTravellers%20in%20Scotland.pdf>.

<sup>78</sup> Scottish Housing Regulator (2015) *Gypsy/Travellers in Scotland: A Thematic Inquiry*, Glasgow: Scottish Housing Regulator, p. 8. Pitch rents varied in 2014/15 varied from £39.90 in East Lothian and Midlothian Council districts to £87.56 in Perth & Kinross Council district.

<sup>79</sup> Chile, Honduras, Ecuador, Mexico and Argentina made recommendations around protecting the rights of asylum seekers and/or migrants while in detention. This included ensuring that if a person was detained it was for the shortest possible duration.

<sup>80</sup> Vulnerable detainees included a survivor of torture and a woman with serious health issues. In February 2015, the Inspector of Prisons made an official visit and published his report <https://www.justiceinspectorates.gov.uk/hmiprisonswp-content/uploads/sites/4/2015/07/Dungavel-web-2015.pdf> of the 214 people detained in Dungavel in February 2015, 14 per cent had been detained for six months or longer. This compares to an average of three per cent of asylum seekers who were detained for six months or more across the UK according to March 2015 statistics published by the British Refugee Council. See: [https://www.refugeecouncil.org.uk/assets/0003/3990/Detention\\_in\\_the\\_Asylum\\_System\\_March\\_2015.pdf](https://www.refugeecouncil.org.uk/assets/0003/3990/Detention_in_the_Asylum_System_March_2015.pdf). Five people were detained in Dungavel for more than 10 months. The longest period that a current detainee had spent there at the time of the inspection was 13 months.

<sup>81</sup> Dungavel House, a former hunting lodge in rural Scotland, operates as the only Immigration Removal Centre in Scotland. It has capacity to hold up to 249 detainees. It was opened as an IRC in 2001 and is currently operated under contract to the Home Office by the GEO Group UK Ltd. Both men and a small number of women are held in the centre but children are no longer detained at this facility.

<sup>82</sup> BBC News Scotland [online], 'Hundreds join Dungavel detention centre protest', 7 May 2016: <http://www.bbc.com/news/uk-scotland-glasgow-west-36236986>.

<sup>83</sup> and those requiring care and support

<sup>84</sup> The Act is premised on principles of increased choice, control, independent living and dignity

<sup>85</sup> Audit Scotland (June 2014) Self-directed support p7 [http://www.audit-scotland.gov.uk/docs/central/2014/nr\\_140612\\_self\\_directed\\_support.pdf](http://www.audit-scotland.gov.uk/docs/central/2014/nr_140612_self_directed_support.pdf)

<sup>86</sup> In 2014/15 guardianship for individuals with learning disability reached the highest level since monitoring began, at 45%. 21% of the welfare guardianships granted in 2014/15 are from the 16-24 age group for learning disability. Mental

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Welfare Commission, AWI Act Monitoring Report 2014/15,

[http://www.mwscot.org.uk/media/240694/awi\\_monitoring\\_report\\_2\\_2014-15.pdf](http://www.mwscot.org.uk/media/240694/awi_monitoring_report_2_2014-15.pdf)

<sup>87</sup> COSLA (2013) National Strategy and Guidance for Charges Applying to Non-residential Social Care 2013/2014) p8

<sup>88</sup> Shared ambition on the future of social care support in Scotland, Independent Living in Scotland, <http://socialcareambition.co.uk/>

<sup>89</sup> Recommendations relating to treatment and conditions in prison, including those related to women prisoners and juvenile offenders, were made by Iran, the Russian Federation, Austria, Nicaragua and Thailand.

<sup>90</sup> Data from 13 May 2016: <http://www.sps.gov.uk/Corporate/Information/SPSPopulation.aspx>. The statistics do not indicate the length of time individuals spend in pre-trial custody.

<sup>91</sup> HM Chief Inspector of Prisons for Scotland (2014) *Annual Report 2013-2014*, Edinburgh: APS Group Scotland. Available online at <http://www.gov.scot/Publications/2014/06/9777/1>. The Inspector notes overcrowding in both HMP Edinburgh and HMP Inverness with bunk beds fitted to accommodate the situation indicating that it is a routine occurrence. In January 2016, the Scottish Prison Service could not provide statistics on the number of instances of overcrowding as requested in a Freedom of Information (FOI) application. The response is available at <http://www.sps.gov.uk/FreedomofInformation/FOI-3819.aspx>.

<sup>92</sup> The Scotland Institute (2015) *Mental Health and Scotland's Prison Population*, Glasgow: The Scotland Institute.

<sup>93</sup> Mental Health Commission for Scotland (2014) *Mental health of women detained by the criminal courts*, Edinburgh: Mental Health Commission.

<sup>94</sup> The findings of the *Prisoner Survey 2015 – Women in Custody* indicated that 26 per cent of respondents had been in care as a child stating that this “tends to emphasise the high levels of social and psychological disadvantage to be found in the female prison population”. The Mental Health Commission also noted that the majority of women in custody, both in prison and forensic hospital wards, had experienced physical and sexual abuse. Mental Health Commission for Scotland (2014) *Mental health of women detained by the criminal courts*, Edinburgh: Mental Health Commission, pp. 11 – 12.

<sup>95</sup> The Scottish Government’s commitment in 2015 to develop five smaller community-based custodial units in different areas of Scotland is welcome as it will help to ensure that female prisoners can serve their sentences in a location close to their own communities to help maintain family contact. Scottish Prison Service (2015) *Symposium Report*, p. 3. This will help to counter the barriers to visiting posed by cost and distance as reported in the *Prisoner Survey 2015 – Women in Custody*. This will be particularly relevant for the 65 per cent of women prisoners in custody who reported that they had at least one child.

<sup>96</sup> Turkey, Malaysia and the United States of America called for the State to take further measures to prevent and sanction hate crimes and collate disaggregated data on such crimes.

<sup>97</sup> <http://www.gov.scot/Publications/2015/10/2156>

<sup>98</sup> Advisory Group on Tackling Sectarianism in Scotland (2015) *Tackling Sectarianism and its Consequences in Scotland: Final Report of The Advisory Group on Tackling Sectarianism in Scotland*, Edinburgh: Scottish Government, available online at <http://www.gov.scot/Publications/2015/05/4296> and <http://news.scotland.gov.uk/News/New-group-to-tackle-hate-crime-1e54.aspx>

<sup>99</sup> The Crown Office Procurator Fiscal in Scotland, *Hate Crime in Scotland 2014-2015*, <http://www.crownoffice.gov.uk/images/HateCrimeinScotland2014-15.pdf>.

<sup>100</sup> Including disability hate crime. In 2014-15, 20 per cent more charges were reported with an aggravation of prejudice relating to disability than in 2013-14. However, Inclusion Scotland has noted that cultural stigma remains a significant barrier for people with disabilities in reporting hate crime and that crime against persons with disabilities are often recorded as anti-social behaviour rather than hate crimes.

<sup>101</sup> The Procurator Fiscal in Scotland’s report also notes that there is “a broad consensus however that this type of crime continues to be under reported”. See: <http://www.crownoffice.gov.uk/images/HateCrimeinScotland2014-15.pdf>, pp. 3-4.

<sup>102</sup> The statistics on complainants do not distinguish between victims and witnesses which means that there is no accurate statistic on the number of victims of hate crimes.

<sup>103</sup> The Coalition for Racial Equality and Rights notes that Police Scotland launched a campaign in 2015 to encourage reporting of hate crime and promote use of 3rd party reporting centres. However, only 1.2% of racist incidents were reported in 2013-2014 through a third party reporting centre, with direct reporting from the victim/complainer or police the most popular methods.

<sup>104</sup> Spain, Colombia, Australia, the United States of America and Greece all made recommendations related to the prevention of human trafficking, particularly related to women and children, as well as ensuring the rights of victims of trafficking.

<sup>105</sup> The [Human Trafficking and Exploitation \(Scotland\) Act 2015](#) set out the penalties which can be passed down to perpetrators of Human Trafficking to a maximum penalty of life imprisonment. The Act had a strong focus on victims and strengthened the level of support which can be given to them.

<sup>106</sup> G. Ross (2015) Spice Briefing: Human Trafficking and Exploitation (Scotland Bill), 15/12.

<sup>107</sup> EHRC Scotland, (2015) Human Trafficking and Exploitation Bill - Stage 1, Glasgow, EHRC. February 2015

<sup>108</sup> National Crime Agency (2015) *National Referral Mechanism Statistics – End of Year Summary 2015* available at <http://www.nationalcrimeagency.gov.uk/publications/national-referral-mechanism-statistics/676-national-referral-mechanism-statistics-end-of-year-summary-2015/file>. For Scottish specific statistics see p. 22. The number of potential victims in Scotland referred to the NRM represented 4.4 per cent of the UK total.

<sup>109</sup> National Crime Agency (2015) *National Referral Mechanism Statistics – End of Year Summary 2015*, <http://www.nationalcrimeagency.gov.uk/publications/national-referral-mechanism-statistics/676-national-referral-mechanism-statistics-end-of-year-summary-2015/file>.

- <sup>110</sup> National Crime Agency (2015) *National Referral Mechanism Statistics – End of Year Summary 2015*, p. 23.
- <sup>111</sup> HM Chief Inspector of Prisons (2015) *Report on unannounced inspection of Dungavel House Immigration Removal Centre by HM Chief Inspector of Prisons, 9 – 20 February 2015*, Edinburgh: HM Inspectorate of Prisons.
- <sup>112</sup> Vietnam recommended that the State “[p]rovide more resources for reforming the welfare system in order to make it better able to tackle poverty and worklessness, and reduce negative impact on social vulnerable groups”.
- <sup>113</sup> A key reform which will affect working-age disabled individuals is the replacement of Disability Living Allowance (DLA) with Personal Independence Payment (PIP). The Government predicts that ‘of the 190,000 DLA claimants in Scotland ... around 105,000 working-age disabled people will lose some or all their disability benefits by 2018 with a loss of at least £1,120 per year’. Scottish Government (2014) *Financial impacts of welfare reform on disabled people in Scotland*, p. 4. Available at <http://www.scotland.gov.uk/Resource/0045/00457564.pdf>.
- <sup>114</sup> It is estimated that 74 per cent of all households in Scotland affected by the Benefits Cap contain children with many of these living in single parent households. Scottish Government, (2015) *Welfare Reform (Further Provision) (Scotland) Act 2012 Annual Report – 2015*, Edinburgh.
- <sup>115</sup> Department of Work and Pensions (2015) *Welfare Reform and Work Bill: Impact Assessment for the benefit cap*, p. 10. Available at <http://www.parliament.uk/documents/impact-assessments/IA15-006.pdf>. The UK Government’s own impact assessment acknowledges that the benefit cap will impact most on women who make up 64 per cent of claimants with 59 per cent of these single mothers. See also Engender (2012) *Multiple Jeopardy: The impacts of the UK Government’s proposed welfare reform on women in Scotland*.
- <sup>116</sup> Overall almost 74 per cent of the £14.9 billion cuts in the UK have impacted on women’s income. House of Commons Library (2012) *How have Coalition budgets affected women?*. Although the negative impact of the Benefit Cap on women and children has been acknowledged by the UK Supreme Court, it was not found unlawful. *R (on the application of SG and others (previously JS and others)) v Secretary of State for Work and Pensions* [2015] UKSC 16. The Supreme Court ruled by a 3-2 majority verdict that the benefit cap (housing benefit) regulations 2012 did not violate Article 14 ECHR and 3(1) of UNCRC. Three of the five judges concluded that the benefit cap was not compatible with Article 3(1) of the UN Convention on Rights of the Child but as it has not been incorporated into domestic law, it did not fall within judicial competence of the Court.
- <sup>117</sup> Jobseeker’s Allowance (JSA) is paid to individuals under 25 at ‘below destitution’ rates will be further affected by the four-year freeze in work age benefits. The new JSA sanction regime also appears to disproportionately impact on younger people. In 2014, nearly 55,900 sanctions were applied in Scotland affecting 38,200 individuals. Forty per cent of the almost 56,000 adverse JSA sanctions were applied to young people even although they only account for 23 per cent of JSA claimants. See also Fitzpatrick et al., (2015), *Destitution in the UK: An interim report*, JRF, UK; Fitzpatrick et al., (2015), *The Homeless Monitor: Scotland 2015*, JRF, UK.
- <sup>118</sup> The Benefit Cap is a measure introduced by the UK Government intended to incentivise work in jobless households. It means that households in receipt of social security payments cannot receive annual payments amounting to more than £26,000. This will be reduced to £20,000 across the UK (£23,000 in Greater London) in autumn 2016.
- <sup>119</sup> Department of Work and Pensions (2015) *Welfare Reform and Work Bill: Impact Assessment for the benefit cap*, p. 11. Available at <http://www.parliament.uk/documents/impact-assessments/IA15-006.pdf>. Scottish Government Communities Analytical Services, (2013) *Communities Analytical Services*, Scottish Government Social Research, Edinburgh.
- <sup>120</sup> Scotland Act 2016
- <sup>121</sup> The Scottish Government has made four commitments in relation to its new social security powers: it will effectively abolish the bedroom tax; it will begin to increase Carer’s Allowance to the level of Jobseeker’s Allowance; abolish the 84-day rule, under which children with disabilities and their families stop receiving Disability Living Allowance and Carer’s Allowance if they are in hospital for more than 84 days; and enable Universal Credit to be paid directly to social landlords, and to offer twice monthly payments to recipients rather than monthly payments. See: <http://www.gov.scot/Resource/0049/00497219.pdf>. The Scottish Government has taken steps to mitigate the ‘bedroom tax’ and committed to its abolition following the devolution of social security rights this year
- <sup>122</sup> Vietnam recommended that the State “[p]rovide more resources for reforming the welfare system in order to make it better able to tackle poverty and worklessness, and reduce negative impact on social vulnerable groups”.
- <sup>123</sup> Office of National Statistics, ‘Regional labour market statistics in the UK, May 2016’ available at <https://www.ons.gov.uk/employmentandlabourmarket/peopleinwork/employmentandemployeetypes/bulletins/regionallabourmarket/may>. Scotland’s employment rate fell by 1.5 percentage
- <sup>124</sup> Economy, Energy and Tourism Committee (2013) *Underemployment in Scotland – 6<sup>th</sup> Report, 2013 (Session 4)*, Scotland: Scottish Parliamentary Corporate Body. Available at [http://www.parliament.scot/S4\\_EconomyEnergyandTourismCommittee/Reports/eeR-13-06w.pdf](http://www.parliament.scot/S4_EconomyEnergyandTourismCommittee/Reports/eeR-13-06w.pdf).
- <sup>125</sup> The Scottish Business Pledge is a voluntary commitment made by companies in Scotland. It includes nine separate components including paying the living wage; not using exploitative zero hours contracts; supporting progressive workforce engagement; investing in Youth; making progress on diversity and gender balance; committing to an innovation programme; pursuing international business opportunities; playing an active role in the community; and committing to prompt payment. Companies making the Business Pledge must meet the core commitment of paying the living wage defined as a wage that gives individuals and families enough income to meaningfully participate in society and that meets socially acceptable standards. The company must also meet two other commitments and make a longer-term commitment to implement all nine Pledge components. See: <https://scottishbusinesspledge.scot/about/>. Furthermore, The Fair Work Convention was established in April 2015 as an independent

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stakeholder body to advise the Scottish Government following the *Working Together Review: Progressive Workplace Policies in Scotland*. It comprises representatives from public, private and third sector employers, trade unions and academia. In 2016, in line with its remit, the Convention published the Fair Work Framework with the aim that “by 2025, people in Scotland will have a world-leading working life where fair work drives success, wellbeing and prosperity for individuals, businesses, organisations and for society”. See: <http://www.fairworkconvention.scot/framework/FairWorkConventionFrameworkFull.pdf>.

<sup>126</sup> Equal Opportunities Committee (2016) *Removing Barriers: race, ethnicity and employment, 1st Report, 2016* (Session 4) <http://www.scottish.parliament.uk/race-ethnicity-employment-report>. The report found that although people from most ethnic minorities performed better academically than white Scots, they were subsequently more likely to be unemployed or in low-paid jobs and underrepresented in senior management roles. See also Scottish Government, (2015) *Analysis of Equality Results from the 2011 Census – Part 2*; Edinburgh. Accessed at <http://www.gov.scot/Publications/2015/03/8716>. The 2011 Census data indicated that the employment rate for all ethnic minorities combined was 61.7 per cent compared to 70.7 per cent in the white Scottish population

<sup>127</sup> Of the Scottish Gypsy/Traveller population (16+) 49 per cent were economically active compared to 63 per cent of the whole population. EHRC Scotland, (2016) *Is Scotland Fairer?*, Glasgow: EHRC. The 2011 Census data concluded that in comparison to the White Scottish population, Scottish Gypsy/Travellers were much less likely to be economically active; more likely to be self-employed; more likely to have never worked; and much more likely to be in the lowest social grade.

<sup>128</sup> The Equality and Rights Commission (EHRC) in its 2015 report on employment practices in the cleaning sector in England, Scotland and Wales, found that migrant workers are more likely to enter this sector and face multiple barriers in securing employment rights and fair pay. [https://www.equalityhumanrights.com/sites/default/files/the\\_invisible\\_workforce\\_full\\_report\\_08-08-14.pdf](https://www.equalityhumanrights.com/sites/default/files/the_invisible_workforce_full_report_08-08-14.pdf)

<sup>129</sup> G. Mulvey (2013) *In search of normality. Refugee integration in Scotland, final report, March 2013*, Glasgow, Scottish Refugee Council.

<sup>130</sup> According to the Scottish Government's analysis of ONS Labour Market Survey in May 2016, the proportion of working age disabled people in Scotland in employment fell to 42.4 per cent representing a 1.4 per cent decrease on the year before. In comparison, the employment rate of Scots non-disabled people in the first quarter of 2016 fell to 79.9 per cent, but is still almost double that of working-age individuals with a disability under the Equality Act. See: <http://www.gov.scot/Resource/0050/00500832.pdf>. Also according to JRF's 2015 report, *Monitoring Poverty and Social exclusion in Scotland 2015*, disabled people are more likely to receive a lower wage than non-disabled people with the same level of qualifications, for example disabled people were paid £1.20 per hour less than non-disabled people in 2013. Excluding benefits paid in recognition of the higher cost of living with a disability (Disability Living Allowance and Attendance Allowance), people in families with a disabled adult are nearly twice as likely to be in poverty as others.

<sup>131</sup> Cuba called on the State to “[g]uarantee the enjoyment of economic, social and cultural rights, particularly health, education and adequate housing.

<sup>132</sup> In December 2015, there were 10,467 households living in temporary accommodation, : [http://scotland.shelter.org.uk/housing\\_policy/key\\_statistics/homelessness\\_facts\\_and\\_research](http://scotland.shelter.org.uk/housing_policy/key_statistics/homelessness_facts_and_research).

<sup>133</sup> Dr F. Sesenko et al (2013) *In it Together: Perceptions on ethnicity, recession and austerity in three Glasgow communities*, Glasgow: Coalition for Racial Equality and Rights, pp. 14-16. Available at <http://www.crer.org.uk/Publications/inittgether.pdf>. The report notes that updated information is required to determine the extent of this issue.

<sup>134</sup> According to 2014-5 official statistics published by the Scottish Government on the operation of the Homeless Persons legislation in Scotland, almost half of all homeless people in Scotland are under 30. The rate of homelessness is much higher for people under 25 with 13.3/1,000 homeless compared to a rate of 5.7/1000 for those aged 25-65. For official statistics see: <http://www.gov.scot/Topics/Statistics/Browse/Housing-Regeneration/RefTables> and for further analysis see: [http://scotland.shelter.org.uk/housing\\_policy/key\\_statistics/homelessness\\_facts\\_and\\_research](http://scotland.shelter.org.uk/housing_policy/key_statistics/homelessness_facts_and_research).

<sup>135</sup> Inclusion Scotland has indicated that 8 in 10 households affected by the UK Government's 'spare room subsidy' or Bedroom Tax contain a disabled person. [Check reference]

<sup>136</sup> These include people leaving hospital, prison or care. According to 2014-15 official statistics this cohort made up seven per cent of the homeless population with six per cent leaving prison and one per cent leaving hospital: [http://scotland.shelter.org.uk/housing\\_policy/key\\_statistics/homelessness\\_facts\\_and\\_research](http://scotland.shelter.org.uk/housing_policy/key_statistics/homelessness_facts_and_research).

<sup>137</sup> The right to buy will be abolished from 1 August 2016. Official statistics show that in 2014-15, 1,553 local authority dwellings were lost to the social housing stock through 'Right to Buy' while almost 34,000 were lost to the social rented sector over a ten-year period. See: [http://scotland.shelter.org.uk/housing\\_policy/key\\_statistics/homelessness\\_facts\\_and\\_research](http://scotland.shelter.org.uk/housing_policy/key_statistics/homelessness_facts_and_research).

<sup>138</sup> In December 2015, there were 10,467 households living in temporary accommodation, : [http://scotland.shelter.org.uk/housing\\_policy/key\\_statistics/homelessness\\_facts\\_and\\_research](http://scotland.shelter.org.uk/housing_policy/key_statistics/homelessness_facts_and_research).

<sup>139</sup> Shelter Scotland estimate that at least 60,000 affordable homes will be required meaning 12,000 each year over the new five-year parliamentary term. Powell, R. et al. (2015) *Affordable Housing Need in Scotland Final Report – September 2015*, Shelter Scotland, Edinburgh. Audit

<sup>140</sup> The Housing (Scotland) Act 2001 and 2019, the Scottish Social Housing Charter and Scottish Housing Quality Standards

<sup>141</sup> Cuba called on the State to “[g]uarantee the enjoyment of economic, social and cultural rights, particularly health, education and adequate housing.

<sup>142</sup> Scottish Government (2016) *Creating a Healthier Scotland: What Matters to You*, Edinburgh: APS Scotland Group. <https://creatingahealthierscotland.files.wordpress.com/2016/03/creating-a-healthier-scotland-summary-report2.pdf>.



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- <sup>143</sup> BEMIS (2016) *Poverty and Ethnicity: Agenda and Policy Development in Scotland – Lived Experiences of Ethnic and Cultural Communities in Scotland*, Glasgow: BEMIS (Scotland). BEMIS is the national Ethnic Minorities led umbrella body in Scotland supporting the development of the Ethnic Minorities Voluntary Sector in Scotland and the communities that this sector represents.
- <sup>144</sup> According to 2011 Census data, Gypsy/Traveller women and men were most likely to report that they had 'poor general health' - this was over three and a half times the rate of the 'White' Scottish ethnic group.
- <sup>145</sup> According to a summary report by ALLIANCE of six 'seldom heard' group events the main concern articulated by Roma participants was the lack of information and communication from General Practitioners. However, it was noted that this was a small group who were young and healthy without any major health issues. See: [http://www.alliance-scotland.org.uk/download/library/lib\\_571df665c7b7b/](http://www.alliance-scotland.org.uk/download/library/lib_571df665c7b7b/).
- <sup>146</sup> Scottish Parliament Health and Sport Committee (2015) Report on Health Inequalities, 1st Report, Session 4, p. 10, [http://www.parliament.scot/S4\\_HealthandSportCommittee/Reports/her-15-01w-rev.pdf](http://www.parliament.scot/S4_HealthandSportCommittee/Reports/her-15-01w-rev.pdf). Persons with disabilities experienced health inequalities due to poverty and through discrimination in access to healthcare services. In particular, lack of access to mainstream transport made it difficult to attend medical appointments.
- <sup>147</sup> SNAP Health and Social Care Action Group, *Response: The national conversation on health and social care, "Creating a Healthier Scotland"*, October 2015. While the Action Group noted that the Government has focused on participation and empowerment, it highlights that it must also ensure that other rights-based principles are adhered to including accountability, legality and respecting equality and non-discrimination.
- <sup>148</sup> Women reported worse mental health than men and scored lower when wellbeing was measured. However, the rate of suicide was almost three times higher for men than women. Millard AD, McCartney G. Scottish mental health profiles for adults: summary report. Edinburgh: NHS Health Scotland; 2015. [http://www.scotpho.org.uk/opt/Reports/Mental%20Health%20Profiles%20for%20Adults\\_5663.pdf](http://www.scotpho.org.uk/opt/Reports/Mental%20Health%20Profiles%20for%20Adults_5663.pdf)
- <sup>149</sup> Millard AD, McCartney G. Scottish mental health profiles for adults: summary report. Edinburgh: NHS Health Scotland; 2015. [http://www.scotpho.org.uk/opt/Reports/Mental%20Health%20Profiles%20for%20Adults\\_5663.pdf](http://www.scotpho.org.uk/opt/Reports/Mental%20Health%20Profiles%20for%20Adults_5663.pdf) See also Dr J. Mitchell & Dr J. Teuton (2015) What Research Matters for Mental Health Policy in Scotland, Edinburgh: Scottish Government, <http://www.gov.scot/Resource/0049/00494776.pdf>.
- <sup>150</sup> In 2010-14 the rate of suicide in the most deprived areas in Scotland was more than 3 times higher than in the least deprived areas. See Dr J. Mitchell & Dr J. Teuton (2015) What Research Matters for Mental Health Policy in Scotland, Edinburgh: Scottish Government, <http://www.gov.scot/Resource/0049/00494776.pdf>
- <sup>151</sup> In 2010-14 the rate of suicide in the most deprived areas in Scotland was more than 3 times higher than in the least deprived areas.
- <sup>152</sup> Five of the fourteen health boards met the target by December 2014 with 13 per cent of people having to wait between three and six months to access services; 11 per cent more than six months and four per cent waited over a year. This compares to England where 61 per cent of people access services within 28 days. See Scottish Association for Mental Health (SAMH) (2016) *Talking it Out: Psychological Therapies in Scotland*.
- <sup>153</sup> There were 4851 episodes of new compulsory treatment in 2014-15. (MWC) Mental Health Act Monitoring Report 2014/15.
- <sup>154</sup> Special Briefing Paper Of the Scottish Mental Health Partnership, <http://www.rcpsych.ac.uk/workinpsychiatry/divisions/rcpsychinscotland/partnership.aspx>. [Rights for Life Change Agenda. https://rightsforlife.org/change-agenda-text/](https://rightsforlife.org/change-agenda-text/)