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**The Scottish Human Rights Commission Submission to the United Nation’s Committee on Economic Social and Cultural Rights for the sixth periodic report of the United Kingdom of Great Britain and Northern Ireland**

 **April 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 and 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.

-The power to conduct inquiries into the policies or practices of Scottish public authorities.

-The power to intervene in some civil court cases.

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. Summary of Questions

SHRC recommends that the Committee ask the United Kingdom:

1. To outline the steps it has taken to give full legal effect to the Covenant in domestic law and provide an effective remedy for victims of all violations of economic, social and cultural rights in line with General Comment No. 9.

2. To explain how it is planning to ensure that the current public spending cuts are temporary covering only the period of crisis, necessary and proportionate, non-discriminatory and ensuring the protection of a minimum core content of rights, at all times, across the UK.

3. What steps it has taken to disseminate the Covenant and implement the Committee’s concluding observations across the UK.

4. To indicate its plans to reduce the gender pay gap and increase gender representation in both the public and private spheres across the UK.

5. To explain how it is planning to address gender disparities and inequality of access within Modern Apprenticeships in Scotland and what measures is putting in place to proactive support young people to progress onto positive destinations.

6. To explain how it will ensure that the ‘national living wage’ provides for a decent standard of living in the context of welfare benefits cuts.

7. To indicate what the plans are to ensure that zero hour contracts, in both public and private sectors, are consistent with the Covenant, in particular enabling everyone to realise their rights to family protection and assistance, an adequate standard of living and adequate access to health care.

8. To explain what specific steps it is taking to eliminate employment related discrimination and to ensure equal opportunities and treatment for vulnerable groups, including in the private sector.

9. To indicate what steps it is taking to ensure that current and future changes to the social security system are compatible with Covenant rights.

10. What it is doing in Scotland to ensure that appropriate support is provided to meet the needs of parents with learning disabilities, including supplementation of care and training for parents.

11. What steps it is taking to ensure the effective provision of affordable, good quality childcare in Scotland and the timeframe for delivering it.

12. To explain its plans to strengthen support services for victims of gender-based violence, including appropriate measures to produce disaggregated data collection on all forms of violence against women.

13. To explain its plans to guarantee an adequate standard of living, in particular what measures it is taking to provide effective support and mitigate adverse economic impacts such as food and fuel poverty, as well as the lack of accessibility to housing for vulnerable groups in Scotland.

14. To indicate what steps are being taken to ensure that Gypsy/Travellers in Scotland fully enjoy the Covenant rights.

15. To indicate what steps are being taken to reduce health inequalities in Scotland.

16. To explain what steps it has taken to ensure the availability and accessibility of appropriate mental health services for those deprived of liberty in Scotland.

17. To explain what steps it has taken to ensure that mental health legislation operates effectively in practice in Scotland.

18. To explain what steps it has taken to ensure the availability and accessibility of education for marginalised children in Scotland, in particular, children in detention, looked after children, Scottish Gypsy/ Travellers and asylum seeking children.

19. To describe what steps it has taken to ensure marginalised groups of children and young people are able to take part in cultural life as a part of their everyday lives in Scotland.

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# Part II. Introduction, Scope and Structure

1. SHRC welcomes the opportunity to make this submission to the Committee on Economic, Social and Cultural Rights (hereafter the Committee) for the sixth periodic report of the United Kingdom of Great Britain and Northern Ireland. This **report covers** the legal framework, policies and practices in Scotland: The Scotland Act 1998 requires both the Scottish Parliament and Scottish Government to act compatibly with both the European Convention on Human Rights (ECHR) and EU law when exercising relevant functions. In addition, ‘observing and implementing UK international human rights obligations’ are matters that can be taken forward by the Scottish Parliament or Scottish Ministers.

2. Under the terms of the Scotland Act 1998 all issues which are not explicitly reserved to the UK Parliament are **devolved to the Scottish Parliament**. Consequently issues such as justice, health and social care, education and training as well as many aspects of transport and environment are within the powers of the Scottish Parliament and responsibilities of the Scottish Government. To give proper consideration to the devolution settlement is central to ensuring that law, policy and practice in Scotland are fully compliant with the International Covenant on Economic, Social and Cultural Rights (ICESCR).

## Structure of the report

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3. In selecting material for this report we have followed the **ICESCR structure**. This submission focuses specifically on updating the information/data from our previous report to the LOI. The report contains a number of questions that we suggest the Committee put to the UK during the periodic review and a background information that supports such questions.

## Sources

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4. This report draws primarily on a three year research project by SHRC which culminated in the publication of *Getting it Right: human rights in Scotland* in October 2012, and the evidence gathered through the implementation of SNAP. It also draws on other and more recent institutional, academic and external sources, including reports published by NGOs, Ombudsmen, inspectorates and regulators and EHRC Scotland as well as our interventions and responses to consultations about proposed legislative changes.

5. The SHRC would be very pleased to provide any clarification, further information, or other assistance to Committee before, during or after the forthcoming session. SHRC would also like to inform the committee that it wishes to attend the State Party review in order to provide oral evidence and answer any question the Committee may have in relation to the issues raised in this submission.

# Part III. Background of Questions

## Articles 1 to 5 - Implementation and General Principles

## Legal framework

6. The UK has yet to give full domestic effect to ICESCR in our various domestic legal systems, including in Scotland.[[1]](#endnote-1) There is no legal framework which holistically deals with the rights contained in ICESCR. The rights contained in ICESCR are obligations for which the state has responsibility to respect, protect, fulfil and provide a remedy if a violation occurs. According to the existing constitutional framework in Scotland, the Scottish Parliament has the devolved competence to legislate with a view to implementing and complying with international legal obligations.[[2]](#endnote-2) It is, therefore, within the power of the Scottish Parliament to incorporate ICESCR in relation to devolved areas, including education, housing and health.

## Scotland’s First National Action Plan for Human Rights and ICESCR

7. Taking our legal and policy framework into consideration, SHRC has used the Scottish National Action Plan on human rights ([SNAP](http://www.scottishhumanrights.com/actionplan)) as a vehicle to promote the full implementation of international human rights treaties in Scotland, bearing in mind the international human rights standards and the General Comment No 10. SHRC (as the national human rights institution for Scotland) has been leading the development of Scotland’s First National Action Plan for Human Rights, which is in its 3rd year now. The Scottish Government, through its commitment to the implementation of SNAP has committed to explore three areas that are relevant for the realisation of socio-economic and cultural rights. These are:

* The potential benefits of incorporation of the UK international obligations in Scotland, which will give proper consideration to economic, social and cultural rights.
* The development of an action plan to implement the UN Guiding Principles on Business and Human Rights.
* Coordination across the public, private and third sectors in Scotland to champion climate justice at home and abroad.

8. In relation to the commitment on incorporation, SNAP and the Scottish Government facilitated a major international conference on incorporation and social justice in December 2015. Scotland’s First Minister Nicola Sturgeon in her keynote speech to the audience endorsed the key role that human rights, including economic, social and cultural rights, play in achieving a fairer society. She has also noted that Scotland’s commitment to the Post 2015 Sustainable Development Goals will aid Scotland in its pursuit of social justice.

9. While SHRC acknowledges the efforts made by the Scottish Government and Parliament to promote economic, social and cultural rights through their commitments under SNAP, holding the Scottish Government to account for these commitments is crucial to ensure real progress over time.

10. As the Committee is aware, the place of human rights in Britain is at a critical juncture. The current UK Government has included a proposal for a British Bill of Rights to replace the Human Rights Act.[[3]](#endnote-3) The proposal has been couched in adverse language by referring to the “damaging effects of Labour’s Human Rights Act” and the “misuse of human rights laws”.[[4]](#endnote-4) The Prime Minister provided an update to Parliament in February 2016 explaining that the UK Government would shortly be coming up with proposals ‘to change Britain’s position with respect to the European Court of Human Rights by having our own British Bill of Rights.’[[5]](#endnote-5) The Scottish Government and Parliament opposes the repeal of the HRA.

11. SHRC continues to be concerned about the potential regressive character of the proposed human rights framework. It is our view that in the current political environment any new British Bill of Rights would result in a weaker replacement for the HRA by undermining the principle of universality, as well as reducing government accountability at home and internationally.

SHRC recommends the Committee asks the United Kingdom to outline the steps it has taken to give full legal effect to the Covenant in domestic law and provide an effective remedy for victims of all violations of economic, social and cultural rights in line with General Comment No. 9.

12. Article 2(1) of ICESCR sets out the budget-specific obligations regarding resource allocation and expenditure with the range of immediate and programmatic duties in the Covenant.[[6]](#endnote-6) In addition, taxation is also a crucial instrument for the realisation of human rights and poverty reduction as identified by the Special Rapporteur on poverty and human rights and this Committee.[[7]](#endnote-7)

13. In February 2016, new tax, welfare and borrowing powers were devolved to the Scottish Parliament.[[8]](#endnote-8) Human rights play an important role to ensure that the new fiscal responsibility is properly scrutinised in terms of spending and revenue, and even forecasting.[[9]](#endnote-9) Human rights analysis could assist politicians and planners to assign priorities in a non-discriminatory manner and to allocate resources where they are needed most. SHRC recommends the adoption of a human rights approach to budgetary decisions to ensure that the allocation of resources and the way state revenues are obtained reflect the principles of justice and fairness in society.

14. During parliamentary consideration of the Land Reform (Scotland) Bill last year, SHRC recommended that the Scottish Parliament consider all applicable international human rights obligations in the development of a land rights framework in Scotland,[[10]](#endnote-10) particularly obligations under ICESCR relating to the use of the all available resources. The obligations under ICESCR are complementary to those of the ECHR. While ICESCR is not currently domestically enforceable, the UK (and Scotland) has a legal duty to comply with its international treaty obligations.

15. SHRC continues to be concerned about the impact of public spending cuts on the progressive realisation of the Covenant’ rights in Scotland, particularly the disproportionate and regressive effect of welfare reform and legal aid cuts have on vulnerable members of society, including children.[[11]](#endnote-11) The Institute for Fiscal Studies described the UK public spending cut as follows:[[12]](#endnote-12)

“*The cut to departmental spending between 2010-11 and 2014-15 has differed from that originally planned in the 2010 Spending Review. Non-investment spending has been cut more than originally intended in cash terms, but inflation has turned out lower than forecast so it has still been cut less than originally expected in real terms (7.8 per cent compared with 8.3 per cent). Real investment spending cuts have turned out much lower than originally planned (13.6 per cent rather than 25.9 per cent) due to lower-than-forecast inflation and decisions since 2010 to top up these spending plans. Beyond 2015–16, the government has penciled in further real terms cuts to total public spending through to 2017–18, then a real freeze up to 2018–19, and then a real terms increase in 2019–20. This profile would take spending in 2019–20 to around the same share of spending as it was in 2000–01. Given OBR forecasts for non-departmental spending, these plans for total spending imply departmental spending would be cut by a further 7.2 per cent between 2015–16 and 2019–20.”[[13]](#endnote-13)*

16. Crucially the UK Government failed to adequately assess the impact of these measures on human rights. Concluding its inquiry on welfare reform, the UK Joint Committee on Human Rights criticised the UK Government for a lack of information on how it had assessed the human rights and equality impact of the new Welfare Reform Act 2012. The Joint Committee further raised concerns that the Welfare Reform Bill (as it was):

 *“may risk breaching human rights in leading to destitution (engaging the prohibition of degrading treatment), discrimination and retrogression in the realisation of economic, social and cultural rights.”[[14]](#endnote-14)*

17. The UK Chancellor announced in the most recent budget (March 2016), further cuts to the provision of welfare (since then the UK government has reconfigured it - and the new Welfare and Pensions Secretary has said there will be no more welfare savings in this Parliament), whilst concurrently introducing tax breaks for some of the UK’s highest earners, including a reduction on corporation tax.[[15]](#endnote-15) The IFS has estimated that the long run impact of tax and benefits reforms in the 2016 Summer Budget means that the richest 10% of people are on average more than £250 better off every year and the poorest 50% will be the same or worse off. For example, cuts to Personal Independence Payments will hit 370,000 sick, vulnerable and disabled people - who will lose up to £3,500 a year.[[16]](#endnote-16) Research continues to highlight the disproportionate impact of on-going welfare reforms on women, lone parents, people with disabilities and children.[[17]](#endnote-17)

SHRC recommends the Committee asks the United Kingdom how it is planning to ensure that the current public spending cuts are temporary covering only the period of crisis, necessary and proportionate, non-discriminatory and ensuring the protection of a minimum core content of rights, at all times, across the UK.

## Dissemination of information regarding the Covenant

18. The Committee has previously expressed the importance of raising levels of awareness about the Covenant not only among public officials and State agents, but also among the population at large. There has been very little public awareness of the Covenant and its Optional Protocols among judges, public officials, police and law enforcement officers, legal advisers and the public at large. The UK has not yet signed or ratified the Optional Protocol which provides a channel through which to communicate a violation to the Committee. Failure to ratify the Optional Protocol thus prohibits individuals in the UK from seeking redress for a violation of an ESC right at the supranational level.

SHRC recommends the Committee to ask the State Party what steps it has taken to disseminate the Covenant and implement the Committee’s concluding observations across the UK.

## Articles 6 to 8 - Right to work

## Gender pay gap

19. The Public Sector Equality Duty came into force in 2011.[[18]](#endnote-18) In Scotland, this requires public bodies to have due regard to the promotion of equality between people with different ‘protected characteristics’.[[19]](#endnote-19) In May 2012, the Scottish Ministers made Regulations placing specific duties on Scottish public authorities to enable the better performance of the public sector equality duty (Scottish Specific Duties).[[20]](#endnote-20) Paragraph 7 of the Regulations imposes a duty on listed public authorities that employ 150 employees or more to publish gender pay gap information every two years from 2013 onwards.[[21]](#endnote-21) This is a positive step towards transparency in closing the gender pay gap in Scotland, however achieving actual parity in pay for women employed in the public sector remains a challenge and the duty does not apply to private corporations or those public bodies not listed in the Regulations.

20. Significant difference in pay continues to exist in Scotland. According to the Annual Survey of Hours and Earnings, provision results for 2015 indicated that women working full time earn 10.6 per cent less than men; whilst women working part-time earn 33.5 per cent less. This means that women earn on average £175.30 less per week than men in Scotland.[[22]](#endnote-22) Recent case law also supports this finding in the public sector.[[23]](#endnote-23) The extent to which this pattern is prevalent in the private sector will continue to be difficult to establish without further requirements. Equal pay legislation remains reserved to the UK Government, however, the Scottish Government has continued to support the Close the Gap project, which works with employers, unions and workers to address the gender pay gap in Scotland.

21. A 2015 research study[[24]](#endnote-24) found that the pay gap across the sub-sectors varies, but the pay gap is particularly high in the following sub-sectors: manufacture of textiles (43.8 per cent); printing and production of recorded media (42 per cent); and manufacture of computer, electronic and optical products (39.1 per cent). Although women are slightly better represented in Scottish manufacturing than elsewhere in the UK, the gender pay gaps are also considerably higher in Scotland (26.5 per cent and 28.9 per cent respectively) than in the UK as a whole (20.8 per cent and 19.0 per cent).[[25]](#endnote-25)

22. In addition, a 2013 report by Heriot-Watt University highlights significant gender segregation in relation to the nature of employment and training undertaken.[[26]](#endnote-26) For example 95.4 per cent of hairdressing apprenticeships were taken up by women in 2011/12, but women accounted for only 2.1 per cent of engineering apprenticeships in the Scottish Government’s flagship modern apprenticeship programme.[[27]](#endnote-27) Moreover, female dominated occupational and industrial sectors tend to be low-paid and undervalued.[[28]](#endnote-28) Gender imbalance remains an issue in many professions, including the judiciary.[[29]](#endnote-29) Although the representation of women in the Judiciary has risen since 1998, at present, the Judiciary of Scotland lists of Judicial Office holders (as at 19th May 2015) indicate that nine out of 33 (27 per cent) Senators of the Royal College of Justice are women; one out of six (17 per cent) Sheriffs Principal are women and twenty–nine out of 132 (22 per cent) full time sheriffs are women. Women therefore represent 23 per cent overall in these categories. These levels of gender inequality are not representative of the rest of Europe, which observes an almost equal male/ female distribution in the Judiciary (average 49 per cent women). Scotland sits second from the bottom of the 45 EU member states.[[30]](#endnote-30) Furthermore, women account for 15 per cent of senior police officers; 10 per cent of UK National Newspaper Chiefs [[31]](#endnote-31) and 24 per cent of Board positions of Scotland-based FTSE 100 companies.[[32]](#endnote-32)

SHRC recommends the Committee asks the United Kingdom to indicate its plans to reduce the Gender pay gap and increase gender representation in both the public and private spheres across the UK.

## Access to employment

23. Scotland now has the highest employment rate out of the four UK nations, and is outperforming the UK as a whole. With an employment rate of 74.9 per cent over the last quarter of 2015, this is the first time that the employment rate in Scotland is higher than it was before the recession.[[33]](#endnote-33) Unemployment has also reduced to a pre-recession peak of 5.4 per cent.[[34]](#endnote-34) However, access to employment remains a significantly more pronounced problem for those who share protected characteristics.[[35]](#endnote-35) For example, a recent Equal Opportunities Committee report (of the Scottish Parliament) into Ethnic Minorities and Employment revealed 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.[[36]](#endnote-36) The 2011 Census data also show 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.[[37]](#endnote-37)

24. An analysis by the Scottish Refugee Council (SRC) revealed that eight months after refugees have been given the right to remain only 34% of refugees are classed as employed, with a further 4.7 per cent in self-employment.[[38]](#endnote-38) The 2011 Census data also reveal high proportions of Scottish Gypsy/Travellers not in work, in particular concluding 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.[[39]](#endnote-39) Disabled people were also over represented in the unemployment statistics, with only 43.3 per cent in employment compared to 80.3 per cent of the non-disabled population.[[40]](#endnote-40)

25. Despite the figures above, research indicates that there remain a high number of young people[[41]](#endnote-41) who are not currently in education, employment or training.[[42]](#endnote-42) For example, 16-24 year olds are five times more likely to be unemployed compared to those aged 55-64.[[43]](#endnote-43) Furthermore, 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.[[44]](#endnote-44) There is no such corollary duty in Scotland. The Commission for Developing Scotland’s Young Workforce, established by the Scottish Government to improve young people’s transition into employment and to reduce youth unemployment by 40 per cent by 2021, highlighted that:[[45]](#endnote-45)

* Young people with disabilities are much more likely to experience difficult transitions through education and to be unemployed after they leave education.
* Young care leavers as a group experience some of the poorest educational and employment outcomes of any group of young people in society.[[46]](#endnote-46) One in three being unemployed nine months after leaving school.[[47]](#endnote-47)
* Young people from Scotland’s black and minority ethnic communities face barriers and embark on a narrower range of pathways than young people from the population as a whole and are more likely to experience unemployment.

26. Modern Apprenticeships (MA) in Scotland are an important mechanism through which to secure routes to employment for young people. The Scottish Government has committed to providing 30000 new MA opportunities every year by 2020. [[48]](#endnote-48) Good disaggregated data are collected to help monitor under representation, however, this currently shows that much less time is spent skilling up young women, people with disabilities and people from ethnic minorities, than young men.[[49]](#endnote-49) A 2014 report shows that this mechanism was seriously hindered by significant gender segregation and inequality in access with ethnic minorities and disabled people also appearing to have low levels of access to all forms of apprenticeships.[[50]](#endnote-50)

SHRC recommends the Committee asks the United Kingdom to explain how it is planning to address inequality and gender disparities within Modern Apprenticeships in Scotland and what measure has put in place to support young people to progress onto positive destinations.

## Just and favourable conditions of work

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27. SHRC welcomes the introduction of a ‘national living wage’ via the 2015 UK Summer Budget. However, recent evidence shows that even after accounting for the ‘national living wage’ and tax cuts, the full suite of budget cuts will produce an average loss of £1,300 for working families with children by 2020, rising to £3,000 for some families.[[51]](#endnote-51) The introduction of the national living wage will not therefore compensate for the cuts to welfare (as the UK Government suggested when it was introduced).[[52]](#endnote-52) Academics have also criticised the UK Chancellor’s misuse of the idea and name of the ‘National Living Wage’ (NLW), because *“unlike the real living wage the NLW does not relate to what households actually need to live decently”*.[[53]](#endnote-53)

28. Prior to the publication of the Summer Budget 2015, the Scottish Government had already adopted the Living Wage scheme, which encourages employers to adopt a sustainable wage for employees.[[54]](#endnote-54) The Scottish Government has urged employers in the private, public and third sectors to follow suit. The Procurement Reform (Scotland) Act 2014 also introduced a mechanism through which paying the Living Wage can inform the procurement tender process (although it is not a binding duty).[[55]](#endnote-55) The recently published Business Pledge is a voluntary scheme introduced by the Scottish Government to encourage businesses to pay the living wage and refrain from entering into adverse practices such as zero contract hours[[56]](#endnote-56), which impact on financial stability and security.[[57]](#endnote-57) A recent study shows that pay has significantly declined (by £1.30 per hour) for people aged under 35 between 2008 and 2013.[[58]](#endnote-58)

SHRC recommends the Committee asks the United Kingdom to indicate what the plans are to ensure that zero hour contracts, in both public and private sectors, are consistent with the Covenant, in particular enable everyone to realise their rights to family protection and assistance, an adequate standard of living and adequate access to health care.

SHRC recommends the Committee asks the United Kingdom to explain how it will ensure that the ‘national living wage’ provides a decent standard of living in the context of other cuts to benefits.

29. A 2015 study that analysed the working conditions and pay for those in the low paid cleaning sector concluded that those in low paid work are more vulnerable to employment exploitation and discrimination.[[59]](#endnote-59) Whilst there are some examples of good practice, the study also revealed that those working in the cleaning sector may be bullied or discriminated against by supervisors, experience problems obtaining their pay, have excessive workloads, and are not treated with dignity or respect.[[60]](#endnote-60) Low pay is prevalent across the sector with wages close to, or at, the National Minimum Wage. Migrant workers are more likely to enter this sector and face multiple barriers in securing employment rights and fair pay, including employers using language barriers to avoid paying employees in full.[[61]](#endnote-61) Migrant workers are not a protected group under the Equality Act 2010 and so face additional barriers to securing non-discrimination in employment matters. The study also offers an insight to procurement practices, which frequently focus on reducing cost and overlook the negative impact this can have on staff turnover, absenteeism, productivity and the quality of service delivery.[[62]](#endnote-62)

30. Disabled people are more likely to receive a lower wage than non-disabled people with the same level of qualifications.[[63]](#endnote-63) In both 2008 and 2013 disabled people were paid significantly less that non-disabled people in Scotland. In 2013, disabled people earned £1.20 per hour less than non-disabled people.[[64]](#endnote-64) Excluding Disability Living Allowance and Attendance Allowance from income (as these benefits are paid in recognition of disabled people’s higher cost of living), people in families with a disabled adult are nearly twice as likely to be in poverty as others.[[65]](#endnote-65)

SHRC recommends the Committee asks the United Kingdom what specific steps is taking to eliminate employment related discrimination and to ensure equal opportunities and treatment for vulnerable groups, including in the private sector.

## Article 9 – Social security

31. Since the 2010 the UK Government has prioritised the reduction of the public debt, pursuing a programme of austerity and cuts in public spending. One of the key affected areas is social security. Changes to the provision of social security benefits by the UK Government were predicted to have a disproportionate effect on women (especially disabled women and women from minority ethnic groups[[66]](#endnote-66) as well as single parents, 92 per cent of whom are women and 95 per cent of whom rely on income support).[[67]](#endnote-67) In total cuts to welfare benefits, tax credits, pay and pensions worth £14.9 billion have been made since 2010 and 74 per cent of that has come from women’s incomes.[[68]](#endnote-68) Research supported by the Scottish Parliament indicates that these cuts are anticipated to have the most severe impact on those in the most deprived areas in Scotland.[[69]](#endnote-69) Recent research by the Scottish Government which assessed the direct and indirect impacts of the UK welfare reforms on the Scottish population further highlighted that disabled people will face a disproportionate reduction in income compared to non-disabled people.[[70]](#endnote-70) In addition to the direct loss of support through the move to personal independence payments and cuts to benefits, disabled men are likely to experience a pay gap of 11 per cent compared to non-disabled men.

32. The DWP’s own impact assessment of the new Benefits Cap[[71]](#endnote-71) expects that a high proportion of large families will be impacted by this change. This is, therefore, likely to have a disproportionate impact on Minority Ethnic households, which have a high prevalence of large families.[[72]](#endnote-72) The impact is also clear on children, it has been estimated that 74 per cent of all households in Scotland affected by the Benefits Cap contain children, with lone parent households the group most likely to be affected.[[73]](#endnote-73) In 2010, 9 out of 10 families with children were eligible for tax credits but by the time Universal Credit is fully rolled out, only 5 out of 10 families with children will be eligible for support.[[74]](#endnote-74)

33. In 2013 the European Social Committee found the minimum level of incapacity benefit, the state pension and job seeker’s allowance to be manifestly inadequate and in breach of Article 12 of the Charter (right to social security).[[75]](#endnote-75) Young people under 25 for whom Jobseeker's Allowance (JSA) is already paid at ‘below destitution’ rates will be further affected by the four-year freeze in work age benefits.[[76]](#endnote-76) The new JSA sanction regime also appears to disproportionately impact on younger people.[[77]](#endnote-77) In 2014, nearly 55,900 sanctions were applied in Scotland affecting 38,200 individuals. Forty per cent of all adverse JSA sanctions were applied to young people even although they only account for 23 per cent of JSA claimants.[[78]](#endnote-78) In 2013, the Special Rapporteur on the right to adequate housing raised concerns in relation to the impact if the welfare reform on the most vulnerable individuals and groups including schemes such as the Independent Living Fund and the devastating impact on persons with disabilities.[[79]](#endnote-79)

34. SHRC continues to be concerned about the impact of welfare reform on the most vulnerable in society, in particular considering the above evidence which implies further destitution, discrimination and retrogression in the realisation of economic, social and cultural rights. In a seminal case in 2015, the UK Supreme Court recognised that the introduction of a benefit cap on housing disproportionately impacted on women and children. However, the Supreme Court *ruled by a 3-2 majority* verdict that the benefit cap (housing benefit) regulations 2012 were not unlawful - no breach of Article 14 ECHR and 3(1) of UNCRC.[[80]](#endnote-80)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. Lord Carnwarth said that he hoped the government would address the implications of the ruling when it reviewed the benefit cap. Lady Hale, in her dissenting opinion, held that Article 3(1) CRC was engaged and that the measures were disproportionate.[[81]](#endnote-81) However, as CRC and ICESCR have not been incorporated in domestic law, treaty breaches are not within judicial competence of the Court.[[82]](#endnote-82) As mentioned above, new tax, welfare and borrowing powers were devolved to the Scottish Parliament last month.

SHRC recommends the Committee asks the United Kingdom what steps is taking to ensure that current and future changes to the social security system are compatible with the Covenant’s rights.

## Prevention of destitution amongst asylum seekers

35. The situation of asylum seekers and refugees is still a concern. Media representation and the impact of the Immigration Act 2014 and the forthcoming new Immigration Bill could exacerbate the current situation.[[83]](#endnote-83) The SRC has highlighted a number of specific concerns relating to the welfare of asylum seekers raised by the proposals for a new single asylum support regime, including that the lack of credible evidence for the change; the likelihood to drastically increasing the vulnerability (and destitution) of women, children, and men refused asylum; the potentially breach of children right’s and the restrictions on appeal rights for asylum support. It is likely that the legislative consent of the Scottish Parliament would be required for some of these areas.[[84]](#endnote-84) An additional concern from civil society is the way in which both pieces of legislation have been rushed through the UK Parliament.[[85]](#endnote-85)

36. Data from the SRC shows that the vast majority of refugees experience destitution in the period between asylum support and receipt of mainstream benefits, often as a result of procedural delays.[[86]](#endnote-86) The Immigration Bill includes a number of restrictions in access to basic rights, both in relation to benefits and access to national insurance number as well as the imposition of benefit sanctions.

## Article 10 – Protection and assistance to family and reproductive rights

## Right to family life of those with learning disabilities

37. People with learning disabilities face challenges in exercising their right to family life. The *National Parenting Strategy*[[87]](#endnote-87), *Getting It Right For Every Child*[[88]](#endnote-88) and the *Scottish Good Practice Guidelines for Supporting Parents with Learning Disabilities*[[89]](#endnote-89)each emphasise the importance of supporting parents with learning disabilities. However, evidence demonstrates that the necessary support is often not made available. The Scottish Government have highlighted that:

*“Disproportionate numbers of parents with learning disabilities have their children removed. Anecdotal evidence indicates that implementation of the Scottish Good Practice Guidelines is at best patchy. Evidence has also shown that human rights to respect for private and family life (article 8 European Convention on Human Rights) and the right of a child not to be separated from its parents on the basis of disability of either the child or one of the parents (article 23, para 4 UN Convention on the Rights of Persons with Disabilities) are sometimes not upheld. Steps are therefore needed to improve the support available to these families.”[[90]](#endnote-90)*

SHRC recommends the Committee asks the United Kingdom what is doing in Scotland to ensure that appropriate support is provided to meet the needs of the individual parents, including supplementation of care and training for parents.

## Affordable childcare

38. Progress has been made in the last decade to increase the availability and affordability of childcare in Scotland and many examples of good practice exist. For example the Children and Young People Scotland Act 2014 extends childcare to Scotland’s most vulnerable two year olds. However, the lack of affordable high quality child care remains a significant barrier to accessing employment and tackling gender stereotypes.[[91]](#endnote-91) The UK has one of highest costs of childcare for in the world - 26.6 per cent of average family incomes, compared to an OECD average of 11.8 per cent.[[92]](#endnote-92) Scotland has some of the highest childcare costs in Britain and equality of access to affordable care remains inconsistent.[[93]](#endnote-93) In Europe, only Switzerland has more expensive provision.[[94]](#endnote-94) The average cost of childcare in Scotland for a 2 year old at nursery for 25 hours per week is £111.13 and £ 203.46 for 50 hours.[[95]](#endnote-95) Indeed, the cost of part time childcare for two children under the age of five is more than the average mortgage in Scotland.[[96]](#endnote-96)

39. Help with childcare costs is provided under a Working Tax Credit, which is set at a maximum of £122.50 per week. In Scotland, children over the age of 3 are entitled to up to 600 hours of free child care per year (Scotland’s Children and Young People Act 2014), which averages at 20 hours per week only. Parents are responsible for meeting the cost of additional hours which proves difficult for those in low paid employment, particularly when the cost of child care has increased whilst wages have remained static.[[97]](#endnote-97) Furthermore, only 21 per cent of local authorities are able to satisfy the current demand for free child care places;[[98]](#endnote-98) only 15 per cent say they have enough childcare for parents who work full time in 2015 (compared to 23 per cent in 2014) and only 7 per cent say they have enough provision for children with disabilities.[[99]](#endnote-99)

40. The Scottish Government has made a commitment to increase free childcare provision to 1140 hours per year?by 2020,[[100]](#endnote-100) however, without improved infrastructure a rise in allocation is unlikely to be able to be fulfilled.[[101]](#endnote-101)

SHRC recommends the Committee asks the United Kingdom what steps is taking to ensure the effective provision of affordable, good quality childcare in Scotland and the timeframe for delivery it.

**Domestic abuse & gender-based violence**

41. There have been a number of improvements to the legislative and policy framework in Scotland.[[102]](#endnote-102) However, sexual crimes in Scotland saw an increase of 11 per cent from 2013-14, which is the highest level seen since 1971 when comparable crime groups data were first made available.[[103]](#endnote-103) Rates of domestic abuse recorded by Police Scotland also saw a 2.5 per cent rise (to 59,882) between 2013-14 and 2014-15. 54 per cent of these incidents resulted in at least one crime or offence being committed.[[104]](#endnote-104) In 79 per cent of all reported incidents of domestic abuse where gender was reported in 2014-2015, the victim was female with a male perpetrator. This percentage share has decreased from 87 per cent in 2005-06. Conversely, the proportion of incidents with a male victim and a female perpetrator has increased from 11% in 2005-06 to 18% in 2014-15. [[105]](#endnote-105)

42. The number of convictions for rape and attempted rape in Scotland saw a dramatic increase of 40 per cent (from 89 in 2013-14 to 125 in 2014-15), with smaller, but noted increases for sexual assault (16 per cent from 236 to 273) and other sexual crimes by 7 per cent (from 563 to 602).[[106]](#endnote-106) The crime types with the longest average sentences in 2014-15 were for rape and attempted rape, although these decreased by 3 per cent (67 days) to just over six and a half years (2,435 days).[[107]](#endnote-107) However, the proportion of people receiving a “not proven‟ verdict in 2014-15 was also highest for rape and attempted rape (19 per cent), followed by sexual assault (11 per cent). [[108]](#endnote-108)

43. The UK as a whole is yet to ratify the Istanbul Convention on preventing and combating violence against women and domestic violence. Improvements to the policy framework practices are also available.[[109]](#endnote-109)

**Forced marriage**

44. In 2011 the Forced Marriage etc. (Protection and Jurisdiction) (Scotland) Act 2011 was introduced providing a specific civil remedy for those in Scotland threatened with forced marriage, and those already in a forced marriage. Thirteen protective orders have been issued in Scotland since the commencement of the Act. In 2014, Scottish Government extended protection for those at risk by making it a criminal offence to force a person into marriage.[[110]](#endnote-110) The most recent UK Government statistics found that 79% of cases involved female victims,[[111]](#endnote-111) there is however, no reliable data on the current prevalence of forced marriage in Scotland.[[112]](#endnote-112)

**Female genital mutilation (FGM)**

45. Legislation criminalising FGM was introduced to the UK in 1985, with Scottish specific legislation following in 2005 making it illegal to take girls abroad in order to conduct the practice. Anyone caught aiding or carrying out the procedure, either in Scotland or abroad, will face up to 14 years imprisonment.[[113]](#endnote-113) To date, however, no one in Scotland has been convicted for practising FGM.[[114]](#endnote-114) In February 2016, the Scottish Government launched its first national action plan to prevent and eradicate FGM.[[115]](#endnote-115)

46. In 2013-14, the NHS Greater Glasgow and Clyde Asylum Health Bridging Team, who work with most asylum seekers dispersed to Glasgow, reported 86 disclosures of FGM (a 330 per cent increase on 2012). The increase is likely to be due in part to an assessment questionnaire containing a specific tailored question on FGM, framed within sensitive inquiry around gender based violence and torture. However, the data available on the practice of FGM in Scotland is either inconsistent or lacking.[[116]](#endnote-116)

**Human trafficking**

47. In 2014 there were 111 cases of adults, children and young people reported as victims of trafficking in Scotland, 23 per cent of whom were children and young people.[[117]](#endnote-117) Very few prosecutions have been made against suspected traffickers in Scotland for human trafficking offences. To date, there have been 6 individuals convicted for human trafficking offences under either section 22 of the Criminal Justice (Scotland) Act 2003 or section 4 of the Asylum and Immigration Act 2004. [[118]](#endnote-118) Moreover, despite specific guidance from the prosecution agencies in Scotland, evidence exists that individuals continue to be prosecuted for offences committed whilst victims of human trafficking.[[119]](#endnote-119)

SHRC recommends the Committee to ask the United Kingdom to explain its plans to strengthen support services for victims of gender-based violence, including appropriate measures to produce disaggregated data collection on all forms of violence against women.

## Article 11 – Right to an adequate standard of living, including adequate food, clothing and housing

48. There has been little statistical change in relative poverty levels between 2007/08 and 2012/13 (18.3 per cent of adults after housing costs). [[120]](#endnote-120) With regard to material deprivation, this has increased in recent years across Scotland, with disabled people, ethnic minorities and women most significantly affected.[[121]](#endnote-121) In-work poverty continues to be an issue faced by a high proportion of working people in Scotland.[[122]](#endnote-122) In a 2015 report indicates that 52 per cent of working age adults are in poverty.[[123]](#endnote-123) In other words, the majority of people in Scotland who are in employment, or who are living with someone in employment, are also living in poverty. The main reasons cited for in-work poverty are low pay; work intensity; income gained and lost through the tax and welfare system; zero contract hours; child care costs and availability; and unfair employment practices.[[124]](#endnote-124)

49. Employment seems no longer a guaranteed route to alleviating poverty within the current regulatory framework in the UK and Scotland. This is indicative of the fact that for children in poverty, 59 per cent are living in households with someone in employment.[[125]](#endnote-125) The Scottish Government has declared its commitment to tackling in-work poverty, including an economic strategy that aims to improve income equality. In summer 2015, the Scottish Government also requested the advice of an independent Advisory on Poverty and Inequality. Her first report, published in January 2016,[[126]](#endnote-126) focused on in-work poverty, housing affordability and young people’s life chances. A summary of recommendations is currently being reviewed by the Scottish Government.

50. In 2013 the Special Rapporteur on adequate housing visited the UK and concluded that it faces a critical situation in terms of availability, affordability and access to adequate housing, particularly in some geographic areas.[[127]](#endnote-127) In particular, there is a shortage of suitable housing for disabled people, Gypsy/Travellers, victims of domestic abuse, migrants (especially those with no recourse to public funds), and offenders.[[128]](#endnote-128) Addressing homelessness has been a priority for Scotland.[[129]](#endnote-129) However, there are persisting disadvantages faced by certain groups despite the removal of the priority needs test in the Homelessness (Scotland) Act 2003. Overcrowding is also an issue for those without secure accommodation, with A8 nationals[[130]](#endnote-130), refugees and Pakistani and Bangladeshi households being most severely affected.[[131]](#endnote-131)

 51. There has been a continued decline in investment in housing, particularly social housing, despite government commitments to the contrary. Following the Summer of 2015 Budget, the Scottish National Party pledged to build 50,000 new affordable home over the five years of the next Parliaments, as well as abolishing the Right to Buy from August 2016. A recent report highlighted that to fulfil current and growing housing needs, Scotland needs at least 12,000 new affordable homes a year for the next five years (with current programmes struggling to provide half of that).[[132]](#endnote-132) Audit Scotland’s recent review of housing needs has estimated that over the next 25 years, half a million new affordable homes will be needed.[[133]](#endnote-133)

52. The Scottish Government uses two specific measures to track progress on the standard of housing stock. The first is the ‘tolerable standard’ which highlights where it is not reasonable to expect people to continue to live in a house that falls below this standard.[[134]](#endnote-134) While the tolerable standard[[135]](#endnote-135) applies to both the public and private housing sector, there is no coherent or consistent policy or compulsory framework for ensuring or mapping the extent to which the private sector, including privately let properties, comply with the standard. The second measure is the Scottish Housing Quality Standard (SHQS). This standard includes a target that all social landlords must make sure that all their accommodation passes the SHQS by 2015. However, this target does not extend to private owners and private landlords.[[136]](#endnote-136) A more consistent and robust framework is needed to tackle inhabitable housing in the private sector.

53. According to data collected in 2012-13, out of Scotland’s two and a half million homes: 349,000 were aﬀected by dampness or condensation; 647,000 households were in fuel poverty; 65,000 households were overcrowded; 151,100 households were on local authority waiting lists and 54 per cent of social housing still fell below the Scottish Housing Quality standards.[[137]](#endnote-137) Despite Internationally praised homelessness legislation, March 2013 saw 10,471 Scottish households in temporary accommodation, 2,460 of whom were living in hostels or B&Bs.[[138]](#endnote-138)

54. In addition, welfare reforms since 2011 have impacted on both the nature of housing need and demand (e.g. the ‘bedroom tax’ has resulted in an increased demand for 1-bedroom properties).[[139]](#endnote-139) A positive development in relation to combatting homelessness has been the introduction of the housing options initiative in 2009-10. Since then the total number of households applying to councils for homelessness assistance has fallen substantially from 54,054 households in 2009-10 to 34,597 in 2014-15. These new statistics are an indication of the extent to which the reduction in overall homeless figures can be attributed to homelessness prevention through housing options services.[[140]](#endnote-140)

## Fuel poverty

55. Fuel poverty continues to be an issue faced by vulnerable groups in Scotland. At the start of 2014, it was estimated that 6.59 million households were living in fuel poverty across the UK- almost exactly one in four UK households.[[141]](#endnote-141) This is an increase of 13 per cent from 5.86 million at the start of 2013. If we compare this figure to the most recently published official statistics on fuel poverty, we see that fuel poverty is up by 49 per cent since 2011. During the same period fuel poverty in Scotland has increased from 795,000 to 890,000 households (up 12 per cent).[[142]](#endnote-142)

56. Fuel poverty was an issue highlighted in the evidence gathering phase of SNAP in 2012 and its commitments.[[143]](#endnote-143) It was also highlighted by the Special Rapporteur on housing in 2013[[144]](#endnote-144) who noted that according to the Fuel Poverty Advisory Group, nearly 50 per cent of fuel-poor households are pensioners, 34 per cent contain someone with a disability or long-term illness, and 20 per cent have a child aged 5 or under.[[145]](#endnote-145) Age Scotland estimates that in 2013, there were over a quarter of a million pensioner couple households (258,000) living in fuel poverty. Figures previously available from 2012 suggested this figure was nearly half the current level. This evidences a greater vulnerability to factors leading to fuel poverty, principally regarding rising fuel prices and fixed incomes.[[146]](#endnote-146) Available data seems to corroborate that fuel poverty is increasing year by year.

## Food poverty

57. The number of people who used food banks in Scotland between 1st April 2014 and 31st March 2015 rose to 117,700 which is over an 800 per cent increase compared to the previous total for 2013-14. This includes food bank usage by more than 58,000 children over the two year period[[147]](#endnote-147) The Scottish Government announced an Emergency Funding (£1 million) designed to tackle food poverty in 2014-2016, including £500,000 to support ‘Fareshare’ to tackle food waste .[[148]](#endnote-148) Citizens Advice Scotland has found that:

*“Between January and March 2014, citizens advice bureaux in Scotland recorded 1,311 new food parcel issues – this equates to one food parcel issue for every 50 clients who received advice. Extrapolating this figure to the number of clients that seek advice at bureaux suggests that bureaux advise on over 5,500 food parcel issues in a year.”[[149]](#endnote-149)*

## Rural poverty

58. Rural poverty was another issue raised in the preparatory evidence for SNAP.[[150]](#endnote-150) The evidence highlighted the increased risk of isolation for those in poverty in rural areas without adequate access to suitable housing or services.[[151]](#endnote-151) Some groups are more likely to live in rural poverty, especially pensioners, single parents, disabled people, people with mental health issues and migrant workers. Rural areas have been exposed to significant centralisation of public and voluntary sector services. Rural Areas have experienced a loss of vital services such as hospitals and schools; people face high costs in heating and maintaining houses not designed to withstand the elements in exposed areas as well as in public transport,[[152]](#endnote-152) which enable employment and training; migrant workers who have limited understanding of English face additional problems in relation to accessing information and support. The nature of the work in the agricultural sector (long hours, low pay) makes it difficult to access language classes, and service providers in rural areas do not have the same access to interpreters as their urban counterparts.[[153]](#endnote-153)

SHRC recommends the Committee to ask the United Kingdom to explain its plans to guarantee an adequate standard of living, in particular what measures it is taking to provide effective support and mitigate adverse economic impacts such as food and fuel poverty as well as the lack of accessibility to housing for vulnerable groups in Scotland.

## Scottish Gypsy/Travellers

59. The lack of appropriate and culturally adequate residential and transit accommodation is often at the root of the stigma and discrimination faced by Gypsies and Travellers across the United Kingdom. [[154]](#endnote-154) According to the 2011 census, Scottish Gypsy/Travellers (SGT) are much more likely to live in overcrowded accommodation without central heating than the rest of the population in Scotland.[[155]](#endnote-155) The lack of available and suitable stopping places for SGT, problems with sanitation on the sites and the levels of racism directed towards SGT are persistent problems faced by these communities.[[156]](#endnote-156) Official stopping sites reportedly often continue to be inadequate in terms of habitability with poor sanitation, such as an inadequate number of toilets, and a lack of clean water.[[157]](#endnote-157) The 2013 Where Gypsy/Travellers Live report by the Scottish Parliament found that past commitments to develop a housing and education strategy for Gypsy/Travellers have not been fulfilled to date.[[158]](#endnote-158)

60. According to recent peer led research within communities of Scottish Gypsy/ Travellers “the lack of adequate sites, both transit and permanent, has become catastrophic”[[159]](#endnote-159) despite encouragement from successive Scottish Government policies encouraging Gypsy/Travellers to purchase their own land for development of site. In practice, Gypsy/Travellers find extremely difficult to obtain the necessary planning permission for housing.[[160]](#endnote-160)

61. Recent efforts (2014-15) by the Scottish Government to develop a Scottish Gypsy/Traveller Strategy and Action Plan (being developed in partnership with a stakeholder group which had some engagement with Scottish Gypsy/Travellers) have been put on hold for further consideration after the Action Plan produced by the Scottish Government was not endorsed by the stakeholder group. While there were some merits to the process taken by the Scottish Government, the resulting action plan was not resourced and for the most part repeated what needs to happen (as many previous reports have) without any concrete commitments from those who need to act to bring about meaningfully change. SHRC has on previous occasions recommended that a Human Rights Based Approach to the plan in order to develop meaningful actions and outcomes.[[161]](#endnote-161)

SHRC recommends the Committee asks the United Kingdom to indicate what steps are being taken to address the Covenant rights of the Gypsy/Travellers in Scotland.

## Article 12 – Right to health

62. WHO has illustrated health inequalities in Scotland as follows:

 *‘A boy born today in Lenzie, East Dunbartonshire, can expect to live until he is 82. Yet for a boy born only eight miles away in Carlton, in the east end of Glasgow, life expectancy may be as low as 54 years, a difference of 28 years or almost half as long again as his whole life’.[[162]](#endnote-162)*

Life expectancy chart. Source: Scottish Parliament, Health and Sport Committee Report on Health Inequalities, 1st Report, Session 4 (2015)



63. As it can be seen, health inequalities in Scotland continue to impact more severely on

people living in poverty, who are more likely to die early and suffer from a range of health problems. Scotland has poor health outcomes attributed to disparities such as poverty, an ageing population and minority groups who face barriers in accessing healthcare.[[163]](#endnote-163) The evidence available points out to the urgent action needed to address the existing health inequalities. *Getting it Right?* and the subsequent participation process identified continuous concerns about the experience of minority ethnic women, men and children, including Scottish Gypsy/Travellers, in accessing culturally appropriate health care.[[164]](#endnote-164) Analysis of the recent 2011 Census provides the most accurate data on the health experiences of Scottish Gypsy/Travellers. For example, 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. [[165]](#endnote-165) SHRC is concerned about the extent of health inequalities across this group in Scotland.

64. The Health and Sport Committee Report (2015) identified strong links between:

*‘low educational attainment, poverty, worklessness or low economic activity, poor quality work and poor quality housing on the one hand, and higher levels of morbidity, reduced life expectancy and poor health outcomes generally. The evidence received also shows that while economic growth brings the potential for increased levels of employment, modern patterns of employment can be characterised by temporary or sporadic work, short term or zero-hours contracts or work that is poorly paid, stressful, low-status and with little autonomy… Economic growth alone, therefore, will not be sufficient to address structural health inequalities. Moreover, the implementation of welfare reform is reducing the income available to the poorest and most vulnerable individuals and families, potentially further impacting on health and wellbeing inequalities’.[[166]](#endnote-166)*

SHRC recommends the Committee asks the United Kingdom to indicate what steps are being taken to reduce health inequalities in Scotland.

## Prisoners

65. There is a noticeable increase in the number of prisoners with mental health problems in Scotland.[[167]](#endnote-167) In 2010, the UK National Preventive Mechanism rated mental health as the most significant and recurring concern across all types of detention.[[168]](#endnote-168) The “*very high levels of self-harm in women’s prisons”* has also been identified as a particular concern regarding mental health care in prisons.[[169]](#endnote-169) Women charged with incidents of violent and disruptive behaviour often have underlying mental health difficulties. The Mental Welfare Commission for Scotland found in its 2014 report on Women Detained by the Criminal Courts, a significant increase on offences involving fire-raising, particularly associated to situations of suicide attempts and alcohol use.[[170]](#endnote-170) HMIPS findings in HMP Barlinnie highlighted the need of adequate resources to deliver the level of mental health interventions identified by NHS Greater Glasgow and Clyde.[[171]](#endnote-171) HMIPS also found that prisoner experience substantial delays for interventions in HM Edinburgh.[[172]](#endnote-172)

SHRC recommends the Committee asks the United Kingdom to explain what steps it has taken to ensure the availability and accessibility of appropriate mental health services for those deprived of liberty in Scotland.

## Immigration healthcare charges

66. The Immigration Act 2014 introduced NHS charging provisions to persons not ordinarily resident in the UK, including persons who require leave to enter or remain in the UK but do not have it, and persons who have leave to enter or remain in the UK for a limited period. A pre-existing scheme in Scotland continues to apply under the National Health Service (Charges to Overseas Visitors) (Scotland) Regulations 1989 which also provides an exemption to charges for exceptional humanitarian reasons.[[173]](#endnote-173) Guidance issued by the Scottish Government indicates failed asylum seekers also fall within this definition.[[174]](#endnote-174)

67. Proposed changes are currently under consultation for a new Immigration Bill which could impact on the provision of health care in Scotland. The Bill proposes that universal access to the NHS be restricted to apply only to those individuals with indefinite leave to remain in the UK. The Bill also proposes a UK-wide pre-entry immigration health charge for non-EEA temporary migrants and students. Concern has been expressed that this will effectively require health professionals to undertake immigration document checks on patients. In response the Royal College of GPs told the Westminster Parliament that it must not "turn GPs into border agents”. An open letter to Westminster also expressed concern that this kind of document-checking process may deter irregular and resident migrants from accessing the care that they need.[[175]](#endnote-175)

## Mental health

68. In Scotland, it was found that in 2012-2013 nearly one in ten (9%) of adults had

two or more symptoms of depression or anxiety. People with mental health problems experience higher mortality rates than people without. Analysis of 2011/12 data found that death rates for adults aged 18 to 64 who had a history of mental health problems were higher (8.5 per 1,000), compared with the general population (3 per 1,000). A Trans Mental Health and Emotional Wellbeing Study in the UK and Ireland in 2012 (with part-funding from the Scottish Government) found that 6 out of 10 respondents had experienced negative questions, attitudes or services in relation to gender identity clinics (62%), mental health services (63%) and general health services (65%).

69. In Scotland, the Mental Health (Care & Treatment)(Scotland) Act 2003 provides the legal framework for involuntary detention and treatment for mental disorder. Concerns have been raised about the effectiveness in practice of mental health legislation. A legislative review conducted by the Scottish Government concluded that, for example, Advance Statements (whereby a patient can set out the way they would like to be treated in the event of becoming mentally unwell) are not widely known or used and need further promotion.[[176]](#endnote-176)

70. The Mental Welfare Commission (MWC) for Scotland has also found that there continues to be wide variation in the understanding and interpretation of the sections of the 2003 Act that allow restrictions to be placed on people who are detained. The MWC also found restrictions on individuals not subject to compulsion under the 2003 Act which were not legally authorised and that there was a lack of knowledge among staff and individuals about the right of appeal and access to mental health advocacy.[[177]](#endnote-177)

71. In relation to the adequacy of mental health care provision, evidence from research in Scotland has found inconsistencies in mental health care and treatment, in particular a ‘range of unmet needs’ in Intensive Psychiatric Care Units. These include a lack of activities, rehabilitation or a therapeutic environment; a ‘one size fits all’ approach to risk management and a lack of opportunities for meaningful involvement in the care process.[[178]](#endnote-178) The most recent  Scottish Government Mental Health Strategy came to an end in 2015 and a further one is in the process of being developed.

SHRC recommends the Committee asks the United Kingdom to explain what steps it has taken to ensure that mental health legislation operates effectively in practice.

## Article 13 and 14 – Education

72. All children of school age have a statutory right to education in Scotland.[[179]](#endnote-179) Local authorities are under an obligation to provide education within their local area in Scotland.[[180]](#endnote-180) The policy framework in Scotland is developed from “Getting it Right for Every Child” which aims to support children in education through a human rights based approach.[[181]](#endnote-181) Research highlights that particular groups face barriers in accessing the education system. For example, outcomes for Looked After Children are notably poorer than other pupils.[[182]](#endnote-182) Young Scottish Gypsy/Travellers continue to face a number of problems. The 2013 *Where Gypsy/Travellers Live* report by the Scottish Parliament found that past commitments to develop an education strategy for Gypsy/Travellers have not been fulfilled to date.[[183]](#endnote-183) The Scottish Parliament encouraged the Scottish Government to explore the inclusion of positive, non-tokenistic representation of Gypsy/Travellers in the curriculum and create an action plan aimed at supporting the transition of young Gypsy/Travellers from primary to secondary education, which embrace Gypsy/Travellers’ needs. As previously noted, whilst educational academic outcomes for many ethnic minority children surpass those of their White-Scottish counterparts, some research suggest that their educational experiences are often marred by bullying and other barriers, although research remains patchy.[[184]](#endnote-184) Recent international comparative research by the OECD has, however, noted high levels of integration in Scottish schools.[[185]](#endnote-185)

73. In 2008 the Committee on the Rights of the Child raised concerns about the lack of protection for the provision of education to children in custody in the UK and recommended that the state “provide for a statutory right to education for all children deprived of their liberty”.[[186]](#endnote-186) Scottish Prison Service research has shown that of male young offenders, one quarter had no formal qualifications, whilst a fifth had difficulty with numeracy, literacy and writing.[[187]](#endnote-187) There is no explicit reference under Scots law for children in detention. There is no equivalent statutory duty in Scotland as that embodied in section 40 of the Apprenticeships, Skills, Children and Learning Act 2009, which secures education for children in detention in England and Wales.

SHRC recommends the Committee asks the United Kingdom to explain what steps it has taken to ensure the availability and accessibility of education for marginalised children in Scotland, in particular, children in detention, looked after children and Scottish Gypsy/ Travellers.

## Access to Higher education

1

74. Students who are resident in Scotland are already entitled to attend university in Scotland and receive support to fund their fees. However, concern was raised that the proportion of students from the 20 per cent most deprived communities opting to attend university remained four times less likely that those from the 20 per cent least deprived communities.[[188]](#endnote-188)

## Article 15 – Right to science and culture life

75. A Scotland’s Commissioner for Children and Young People review of children’s right to cultural life found that despite Scotland’s lively community of artists and organisations many children will have little access or exposure to the cultural life as they grow up, particularly those children living in poverty and with disabilities.[[189]](#endnote-189) The 2013 State of Children’s Rights in Scotland report pointed out the wide concern that disabled children still do not have equal access to recreational life and that the current financial climate is having a negative impact on the number of opportunities available.[[190]](#endnote-190)

SHRC recommends the Committee asks the United Kingdom to describe what steps it has taken to ensure marginalised groups of children and young people are able to take part in cultural life as a part of their everyday lives in Scotland.

## References:

1. For a discussion on the dualist system of incorporation see Anthony Aust, *Handbook of International Law,* 2nd Ed. (Cambridge University Press 2010), pp.75-76. An example of a non-incorporated treaty dealing with ESC rights is the International Covenant on Economic Social and Cultural Rights, UN General Assembly, 16 December 1966, United Nations, Treaty Series, vol. 993, 3 [↑](#endnote-ref-1)
2. Paragraph 2(b) of Schedule 5 of the Scotland Act [↑](#endnote-ref-2)
3. See 2015 Queen’s Speech, available at <https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/430029/queens-speech-briefing-pack.pdf> [↑](#endnote-ref-3)
4. Ibid [↑](#endnote-ref-4)
5. Prime Minister David Cameron, 3 February 2016. Available at: http://www.publications.parliament.uk/pa/cm201516/cmhansrd/cm160203/debtext/160203-0002.htm#160203-0002.htm\_spmin2 . [↑](#endnote-ref-5)
6. The state parties have a duty to take steps to the maximum of their available resources, to achieve the full realisation of Covenant rights progressively. [↑](#endnote-ref-6)
7. For example UN General Assembly ‘Report of the Special Rapporteur on extreme poverty and human rights , Magdalena, Sepulveda Carmona’ (22 May 2014), UN Doc. A/HRC/26/28; Special Rapporteur on Extreme Poverty Philip Alston ‘Report of the Special Rapporteur on extreme poverty and human rights, Philip Alston, on extreme inequality and human rights’ (2015) UN Doc. A/HRC/29/31; Center for Economic and Social Rights website, ‘Human Rights in Tax Policy’ page. [↑](#endnote-ref-7)
8. The 2016 agreement between the Scottish Government and the United Kingdom Government on the Scottish Government’s fiscal framework. Available at https://www.gov.uk/government [↑](#endnote-ref-8)
9. For further information see: http://www.scottishhumanrights.com/eqhria/eqhriaresbudgetan [↑](#endnote-ref-9)
10. Commission reiterates importance of economic, social and cultural rights to land reform, available at http://scottishhumanrights.com/news/latestnews/landreformJan16 [↑](#endnote-ref-10)
11. See for example SHRC statement to the UN HRC on Children in 2014 and Written evidence to the Scottish Parliament on Welfare reform in 2013, available at <http://www.scottish.parliament.uk/parliamentarybusiness/CurrentCommittees/71521.aspx>; See also Pillay, A.G., Chairperson of the Committee on Economic, Social and Cultural Rights, Open Letter to States Parties to the ICESCR, 2012, available at: http://www2.ohchr.org/english/bodies/cescr/docs/LetterCESCRto¬SP16.05.12.pdf. [↑](#endnote-ref-11)
12. The Institute for Fiscal Studies was founded in 1969. Established as an independent research institute, IFS was launched with the principal aim of better informing public debate on economics in order to promote the development of effective fiscal policy. Through the establishment of rigorous independent research, for example Post Budget analysis. Today, IFS is Britain’s leading independent microeconomic research institute. Its research remit is one of the broadest in public policy analysis, covering subjects from tax and benefits to education policy, from labour supply to corporate taxation. [↑](#endnote-ref-12)
13. For further information visit http://election2015.ifs.org.uk/public-spending [↑](#endnote-ref-13)
14. Joint Committee on Human Rights (2011). Legislative Scrutiny: Welfare Reform Bill, summary. London, UK Parliament. [↑](#endnote-ref-14)
15. £4bn alone coming from the summer 2015 Budget and the March 2016 Budget announcements. See OBR Policy measures database, updated 16 March 2016 (http://budgetresponsibility.org.uk/data/) [↑](#endnote-ref-15)
16. IFS 2016 Budget Analysis, available at http://www.ifs.org.uk/publications/fiscalStudies Corporation tax was cut again. The UK already had the lowest rate in the G20. [↑](#endnote-ref-16)
17. See for example: CPAG in Scotland, 2016, Welfare reform: The impact on families in Scotland, Edinburgh; CPAG; Engender, 2014, Gender and ‘Welfare Reform’ in Scotland, A joint position Paper, Edinburgh, Engender; Fitzpatrick et al., (2015a), Destitution in the UK: An interim report, JRF, UK; Fitzpatrick et al., (2015b), The Homeless Monitor: Scotland 2015, JRF, UK; O’Hagan, A, (2014), Women of Independent Mind: Women’s equality in a future Scotland, The Common Weal, Edinburgh; Welfare Reform Committee, (2015), 1st Report, 2015 (Session 4): The Cumulative Impact of Welfare Reform on Households in Scotland, Edinburgh, Scottish Parliament; White, G., 2015; The Impact of Welfare Reform on Third Sector Care and Support Services in Scotland, IRISS & CCPS, Glasgow; [↑](#endnote-ref-17)
18. Section 149 of the Equality Act 2010 [↑](#endnote-ref-18)
19. The protected characteristics are listed in section 4 of the Equality Act 2010, namely age; disability; gender reassignment; marriage and civil partnership; pregnancy and maternity; race; religion or belief; sex; and sexual orientation. Section 75 of the Northern Ireland Act 1998 imposes an obligation to have due regard to the promotion of equality of opportunity between persons of different religious belief, political opinion, racial group, age, marital status or sexual orientation; between men and women generally; between persons with a disability and persons without; and between persons with dependents and persons without [↑](#endnote-ref-19)
20. The Equality Act 2010 (Specific Duties) (Scotland) Regulations 2012 [↑](#endnote-ref-20)
21. Those public authorities listed in the Schedule to the Regulations [↑](#endnote-ref-21)
22. Close the Gap Statistics, available at http://www.closethegap.org.uk/content/gap-statistics/ [↑](#endnote-ref-22)
23. See for example the recent judgments in North v Dumphries and Galloway Council [2013] UKSC 45 and Birmingham City Council v Abdulla & Ors [2011] EWCA Civ 1412 [↑](#endnote-ref-23)
24. Close the Gap and University of Strathclyde (2015) Making Manufacturing Work for Women

Summary of research findings. See Report at <http://www.closethegap.org.uk/content/resources/Making-Manufacturing-Work-for-Women---Summary-of-research-findings-Close-the-Gap-June-2015.pdf> [↑](#endnote-ref-24)
25. Close the Gap and University of Strathclyde (2015) Making Manufacturing Work for Women

Summary of research findings. See Report at <http://www.closethegap.org.uk/content/resources/Making-Manufacturing-Work-for-Women---Summary-of-research-findings-Close-the-Gap-June-2015.pdf> [↑](#endnote-ref-25)
26. For further information see

www.equalityhumanrights.com/sites/default/files/documents/Scotland/Research/part\_1\_final\_report\_170713.pdf [↑](#endnote-ref-26)
27. Ibid. [↑](#endnote-ref-27)
28. O’Hagan, A, (2014), Women of Independent Mind: Women’s equality in a future Scotland, The Common Weal, Edinburgh. [↑](#endnote-ref-28)
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30. See Council of Europe report on European Judicial Systems 2014 [↑](#endnote-ref-30)
31. O’Hagan, A, (2014), Women of Independent Mind: Women’s equality in a future Scotland, The Common Weal, Edinburgh. [↑](#endnote-ref-31)
32. EHRC Scotland, (2016) Is Scotland Fairer?, EHRC, Glasgow. [↑](#endnote-ref-32)
33. See http://www.bbc.co.uk/news/uk-scotland-scotland-business-35357497 published 26 January 2016. [↑](#endnote-ref-33)
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36. BBC News, (2016) Non-whites Scots ‘face prejudice at work’, published 28th January 2016, accessed at <http://www.bbc.co.uk/news/uk-scotland-scotland-politics-35421018>. See also: Equal Opportunities Committee (2016) Removing Barriers: race, ethnicity and employment, 1st Report, 2016 (Session 4) http://www.scottish.parliament.uk/race-ethnicity-employment-report [↑](#endnote-ref-36)
37. Scottish Government, (2015) Analysis of Equality Results from the 2011 Census – Part 2; Edinburgh. Accessed at http://www.gov.scot/Publications/2015/03/8716 [↑](#endnote-ref-37)
38. Mulvey, G, (2013) In search of normality. Refugee integration in Scotland, final report, March 2013, Glasgow, Scottish Refugee Council [↑](#endnote-ref-38)
39. Of the younger 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?, EHRC, Glasgow. [↑](#endnote-ref-39)
40. Ibid. [↑](#endnote-ref-40)
41. See <http://news.scotland.gov.uk/News/-60-million-to-boost-youth-employment-2289.aspx> [↑](#endnote-ref-41)
42. Education Working For All! Commission for Developing Scotland’s Young Workforce, p.14, available at http://www.gov.scot/Resource/0045/00451746.pdf [↑](#endnote-ref-42)
43. ONS (2013) Scottish Surveys Core Questions 2013: An official statistics publication for Scotland: People, Communities and Places, Edinburgh. [↑](#endnote-ref-43)
44. The Education and Skills Act 2008 increased the minimum age at which young people in England can leave learning. The Act required them to continue in education or training until the age of 17 in 2013 and the compulsory age has now increased to 18 from 2015. Young people will be able to choose whether to stay in full-time education, undertake work-based learning such as an Apprenticeship, or part-time education or training if they are employed, self-employed or volunteering for more than 20 hours per week, see http://www.politics.co.uk/reference/education-leaving-age [↑](#endnote-ref-44)
45. http://www.gov.scot/Topics/Education/edandtrainingforyoungple/commissiondevelopingscotlandsyoungworkforce [↑](#endnote-ref-45)
46. ibid [↑](#endnote-ref-46)
47. Scottish Government Scotstat (2014) Early Destinations of Students Qualifying from Scottish Higher Education Institutions 2012-13, Edinburgh. [↑](#endnote-ref-47)
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52. The IFS estimates that “[R]eductions in the welfare bill will save the Treasury £12 billion by the end of the decade, while the gross increase in pay from the higher minimum wage is £4 billion”. See also Equality and Human Rights Commission, Modern Apprenticeships, Equality and the Economy, Spreading the Benefits, 2014, available at http://www.equalityhumanrights.com/about-us/devolved-authorities/the-commission-in-scotland/research-in-about-us/devolved-authorities/the-commission-in-scotland/modern-apprenticeships [↑](#endnote-ref-52)
53. Veit-Wilson, J, (2016), why a national living wage is not a real living wage, University of Newcastle. Available at <http://www.sochealth.co.uk/2016/03/28/national-living-wage-not-real-living-wage/> [↑](#endnote-ref-53)
54. The living wage is defined as a wage that gives individuals and families enough income to meaningfully participate in society and that meets socially acceptable standards. [↑](#endnote-ref-54)
55. Section 29 of the Act provides that the Scottish Ministers may publish guidance about the selection of economic operators, including guidance relating to a living wage. Section 15 also imposes a duty to consider the living wage as part of a procurement strategy. [↑](#endnote-ref-55)
56. The Office for National Statistics (ONS) says that 697,000 people were employed on zero-hours contracts for their main job between October and December 2014 That represents 2.3per cent of the UK workforce. [↑](#endnote-ref-56)
57. According to the Poverty Alliance, businesses across Scotland have showed a commitment to becoming accredited Living Wage Employers, with an initial target of 500 businesses by March 2016 being achieved through the Scottish Living Wage Accreditation Initiative. This is a dramatic increase from April 2014 when the initiative started and only 20 businesses had signed up see Living Wage Movement in Scotland Continues to Grow, March 12 2016, available at <http://www.povertyalliance.org/article/slwai_target> See also https://scottishbusinesspledge.scot/ [↑](#endnote-ref-57)
58. EHRC Scotland, (2016) Is Scotland Fairer?, EHRC, Glasgow. [↑](#endnote-ref-58)
59. ‘The invisible workforce, those in the cleaning sector’, Equality and Human Rights Commission, March 2015, available at http://www.equalityhumanrights.com/about-us/our-work/key-projects/invisible-workforce-employment-practices-cleaning-sector [↑](#endnote-ref-59)
60. Ibid p.7 [↑](#endnote-ref-60)
61. Ibid p.32 [↑](#endnote-ref-61)
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64. EHRC Scotland, (2016) Is Scotland Fairer?, EHRC, Glasgow. p.39 [↑](#endnote-ref-64)
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Scotland [↑](#endnote-ref-67)
68. House of Commons Library (2012) How have Coalition budgets affected women? [↑](#endnote-ref-68)
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<http://www.scotland.gov.uk/Resource/0045/00457564.pdf> [↑](#endnote-ref-70)
71. Department of Work and Pensions (2011) Household Benefit Cap: Equality impact assessment http://www.dwp.gov.uk/docs/eia-benefit-cap-wr2011.pdf Accessed 18/12/2012. [↑](#endnote-ref-71)
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Annual Report – 2015, Edinburgh. [↑](#endnote-ref-73)
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75. European Social Charter, European Committee of Social Rights, Conclusions XX-2 (2013), (GREAT BRITAIN) Articles 3, 11, 12, 13 and 14 of the 1961 Charter, January 2014. In association with the other rights under the thematic review ‘Health, social security and social protection’ the Committee concluded 11 incidences of conformity in relation Articles 3§1, 3§2, 3§3, 11§1, 11§2, 11§3, 13§1, 13§2, 13§3, 14§1, and 14§2 and one incidence of non-conformity under Article 12§1. [↑](#endnote-ref-75)
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100. Ibid. [↑](#endnote-ref-100)
101. Ibid. [↑](#endnote-ref-101)
102. Sexual Offences (Scotland) Act 2009; Domestic Abuse (Scotland) Act 2011; Children’s Hearings (Scotland) Act 2011; Forced Marriage etc. (Protection and Jurisdiction) (Scotland) Act 2011; Children and Young People (Scotland) Act 2014 Victims and Witnesses (Scotland) Act 2014; Human Trafﬁcking and Exploitation (Scotland) Act 2015; The Abusive Behaviour and Sexual Harm Bill (passed March 2016). An example of good local practice includes a specialist service in the Scottish Borders called the ‘Safe Housing Options’ service. Provide in partnership with homelessness services, registered social landlords, Border Women’s Aid, Children 1st and the Domestic Abuse Advocacy Support service, safe, secure and long-term housing choices are provided to help families recover from their experiences. The results show victims and their children are more likely to stay safely in their own homes and local areas, less likely to have to move, and children are more likely to remain in their own school with friend. Scottish Government VAWG Team, (2016) Equally Safe Bulletin Issue 74: February 2016, Scottish Government; A further example is of a domestic/sexual abuse detection service for asylum seeking women in Glasgow. See De Lomba, S. & Murray, N. (2014) Women and Children First? Refused asylum seekers’ access to and experiences of maternity care in Glasgow, Strathclyde University & Scottish Refugee Council Glasgow. [↑](#endnote-ref-102)
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109. An example of good local practice includes a specialist service in the Scottish Borders called the ‘Safe Housing Options’ service. Provide in partnership with homelessness services, registered social landlords, Border Women’s Aid, Children 1st and the Domestic Abuse Advocacy Support service, safe, secure and long-term housing choices are provided to help families recover from their experiences. The results show victims and their children are more likely to stay safely in their own homes and local areas, less likely to have to move, and children are more likely to remain in their own school with friend. Scottish Government VAWG Team, (2016) Equally Safe Bulletin Issue 74: February 2016, Scottish Government; A further example is of a domestic/sexual abuse detection service for asylum seeking women in Glasgow. See De Lomba, S. & Murray, N. (2014) Women and Children First? Refused asylum seekers’ access to and experiences of maternity care in Glasgow, Strathclyde University & Scottish Refugee Council Glasgow. [↑](#endnote-ref-109)
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111. https://www.gov.uk/government/uploads/system/uploads/attachment\_data/ ﬁle/412667/FMU\_Stats\_2014.pdf [↑](#endnote-ref-111)
112. HRC Scotland, (2016) Is Scotland Fairer?, EHRC, Glasgow. [↑](#endnote-ref-112)
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119. EHRC Scotland, (2015) Human Trafficking and Exploitation Bill - Stage 1, Glasgow, EHRC. February 2015 [↑](#endnote-ref-119)
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122. In-work poverty is defined as ‘individuals living in households where the household income is below the poverty threshold despite one member of the household working either full or part time. See http://www.employabilityinscotland.com/barriers/poverty/what-you-should-know-about-tackling-poverty/poverty-and-employment/in-work-poverty/ [↑](#endnote-ref-122)
123. Ibid Para.2.2 Where household income is under 60 per cent of the average household income (before housing costs) [↑](#endnote-ref-123)
124. See Scottish Government 2015 Report, ibid, para.1.3. See also the report issued by Citizens Advice Bureau Scotland, Rob Gowans, ‘An End to In-work poverty’, Parliamentary Briefing, 18 March 2015, available at http://www.cas.org.uk/system/files/publications/In%20Work%20Poverty%20briefing%20-%20Scottish%20Parliament.pdf [↑](#endnote-ref-124)
125. http://www.gov.scot/Publications/2014/07/9247/4 [↑](#endnote-ref-125)
126. Independent Advisor on Poverty and Inequality (2016), Shifting the Curve A Report to the First Minister, Scottish Government, Edinburgh. Accessed at http://www.gov.scot/Publications/2016/01/1984. [↑](#endnote-ref-126)
127. See UN Human Rights Council, Report of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context, 30 December 2013, A/HRC/25/54 [↑](#endnote-ref-127)
128. See Report of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context on her mission to the United Kingdom of Great Britain and Northern Ireland (29 August–11 September 2013) [↑](#endnote-ref-128)
129. There were more than 150,500 people on a council waiting list for a home and 35,764 homeless applications in 2014/15. Shelter (2015) Statistical Analysis Report: Homelessness and prevention through Housing Options in 2015 – what does the data show? December 2015. [↑](#endnote-ref-129)
130. A8 country nationals are: Czech Republic, Estonia, Hungary, Latvia, Lithuania, Poland, Slovakia and Slovenia [↑](#endnote-ref-130)
131. See The Coalition for Racial Equality and Rights (CRER) report on housing, available at http://www.crer.org.uk [↑](#endnote-ref-131)
132. Powell, R. et al. (2015) Affordable Housing Need in Scotland Final Report – September 2015, Shelter Scotland, Edinburgh. [↑](#endnote-ref-132)
133. http://www.audit-scotland.gov.uk/docs/local/2013/nr\_130711\_housing\_overview.pdf,

In 2012-13, out of Scotland’s two and a half million homes, 349,000 were aﬀected by dampness or condensation and 647,000 households were in fuel poverty. 65,000 households were overcrowded, 151,100 households were on local authority waiting lists, and 54% of social housing still fell below the Scottish Housing Quality standards. (A large proportion of private housing will be below these standards too, but they are only applied to the social sector.) Despite exemplary homelessness legislation, March 2013 found 10,471 Scottish households in temporary accommodation, and 2,460 of these were living in hostels or bed and breakfast hotels.

See http://scotland.shelter.org.uk/housing\_policy/key\_statistics/the\_facts\_about\_scot- lands\_housing, and www.ukhousingreview.org.uk, table 94, accessed May 2014 [↑](#endnote-ref-133)
134. An interesting question for further exploration would be how well the ‘tolerable’ standard of living described here would match up to the standard of habitability contained within the right to an adequate standard of living. It would be within the power of the Scottish Parliament to align the tolerable standard with the standard of habitability as defined in ICESCR. [↑](#endnote-ref-134)
135. The Tolerable Standard was redefined in the Housing (Scotland) Act 2006 which amended the Housing (Scotland) Act 1987 and applies to all houses in Scotland. [↑](#endnote-ref-135)
136. Data is, however, collected and reported for all accommodations which allow for comparison across the housing stock. [↑](#endnote-ref-136)
137. It is likely that a large proportion of private housing will be below these standards too, but they are only applied to the social sector. [↑](#endnote-ref-137)
138. http://scotland.shelter.org.uk/housing\_policy/key\_statistics/the\_facts\_about\_scot- lands\_housing, and www.ukhousingreview.org.uk, table 94, accessed May 2014 [↑](#endnote-ref-138)
139. Powell, R. et al. (2015) Affordable Housing Need in Scotland Final Report – September 2015, Shelter Scotland, Edinburgh. [↑](#endnote-ref-139)
140. Shelter (2015) Statistical Analysis Report: Homelessness and prevention through Housing Options in 2015 – what does the data show? December 2015 [↑](#endnote-ref-140)
141. See Fuel poverty 2014 Report update. Association for the Conservation of Energy. In the whole of the UK the number of children in fuel poverty has increased by 375,000 (up 17per cent) since the start of 2013, up from 2.2 million to 2.57 million at the start of 2014. [↑](#endnote-ref-141)
142. Ibid [↑](#endnote-ref-142)
143. http://www.scottishhumanrights.com/actionplan/themewherewelive [↑](#endnote-ref-143)
144. Ibid. [↑](#endnote-ref-144)
145. Fuel Poverty Advisory Group, *Tenth Annual Report 2011-2012*, p. 5. [↑](#endnote-ref-145)
146. Age Scotland see http://www.ageuk.org.uk/scotland/latest-news/archive/age-scotland-calls-for-urgent-investment-to-end-fuel-poverty/ [↑](#endnote-ref-146)
147. See http://www.trusselltrust.org/stats [↑](#endnote-ref-147)
148. Scottish Government, (2015) Welfare Reform (Further Provision) (Scotland) Act 2012

Annual Report – 2015, Edinburgh. [↑](#endnote-ref-148)
149. See Emergency Food Fund: no-one wants people needing food aid. http://www.cas.org.uk/news/emergency-food-fund-no-one-wants-people-needing-food-aid [↑](#endnote-ref-149)
150. http://www.scottishhumanrights.com/actionplan/themewherewelive [↑](#endnote-ref-150)
151. ibid [↑](#endnote-ref-151)
152. One in ten people living in remote and accessible rural areas of Scotland do not have access to a bus service. These areas also have a higher proportion of older people and disabled people. (EHRC Scotland, (2016) Is Scotland Fairer?, EHRC, Glasgow.) [↑](#endnote-ref-152)
153. The Experience of Rural Poverty in Scotland. Ekos ltd 2009. Available at http://www.gov.scot/Topics/Research/About/Social-Research [↑](#endnote-ref-153)
154. Special Rapporteur, para.69 [↑](#endnote-ref-154)
155. http://www.gov.scot/Publications/2015/03/8716/3 [↑](#endnote-ref-155)
156. <http://www.scottish.parliament.uk/S4_EqualOpportunitiesCommittee/General%20Documents/SPICe_briefing_Where_Gypsy_Travellers_live.pdf> See also Scottish Government (2013) Scottish Government Equality Outcomes: Ethnicity Evidence Review, Edinburgh. [↑](#endnote-ref-156)
157. SHRC, Where We Live, p.22 [↑](#endnote-ref-157)
158. Scottish Parliament Committee’s report ‘Where Gypsy/Travellers Live’ at http://www.scottish.parliament.uk/S4\_EqualOpportunitiesCommittee/Reports/eor-13-01w.pdf [↑](#endnote-ref-158)
159. Article 12 in Scotland (2016) Young Gypsy Travellers’ Lives: On-Line Media Audit 2011 – 2014

Consolidated Report January 2016. [↑](#endnote-ref-159)
160. Ibid. [↑](#endnote-ref-160)
161. www.scottishhumanrights.com/.../UPRsubmissionshrc15nov2011.doc [↑](#endnote-ref-161)
162. World Health Organization. (2008) Closing the gap in a generation - Health equity through action on the social determinants of health. Available at

http://whqlibdoc.who.int/publications/2008/9789241563703\_eng.pdf?ua=1 [↑](#endnote-ref-162)
163. For example, there is a lack of access to sign language interpreters. [http://www.equalityhumanrights.com/equality-human-rights-commission-requires-nhs-tayside-meet-communication-needs-deaf-patients](https://webmail.ul.ie/owa/redir.aspx?C=BuFyjqkNNEmZKl_9QWh8a3oenJZTedIIVUokbSwpXYNZVCxV0zP5KG32u1Zcp0XK0ivD8UevI6c.&URL=http%3a%2f%2fwww.equalityhumanrights.com%2fequality-human-rights-commission-requires-nhs-tayside-meet-communication-needs-deaf-patients) [↑](#endnote-ref-163)
164. SHRC, Getting it Right? Human Rights in Scotland, Edinburgh available at www.scottishhumanrights.com/: [↑](#endnote-ref-164)
165. ONS 2015, Equality, Poverty and Social Security, Scottish Government, Edinburgh. [↑](#endnote-ref-165)
166. Scottish Parliament, Health and Sport Committee Report on Health Inequalities, 1st Report, Session 4 (2015). [↑](#endnote-ref-166)
167. SAMH revealed that figures obtained from parliamentary questions showed there were 219 cases of self-harm in Scottish jails in 2010, an increase of 140% from 91 cases in 2004 SAMH (2011). SAMH research briefing: mental health & criminal justice in Scotland, Glasgow, Scottish Association for Mental Health. Responsibility for the provision of healthcare services, including mental health services, to prisoners was transferred from the Scottish Prisons Service to NHS Health Boards on 1 November 2011. For a further discussion See HMCIPS (2007). HM Chief Inspector of Prisons for Scotland Annual Report 2006-7. H. C. I. o. Prisons. Edinburgh, Scottish Government. HMCIPS (2011). Her Majesty's Chief Inspector of Prisons for Scotland Annual Report 2010-2011. Edinburgh, HM Chief Inspector of Prisons for Scotland. See also Scottish Prison Commission (2008). Scotland’s Choice: Report of the Scottish Prisons Commissions. Edinburgh. [↑](#endnote-ref-167)
168. The detention of individuals for mental health reasons is governed in Scotland by the Mental Health (Care and Treatment) (Scotland) Act 2003. [↑](#endnote-ref-168)
169. Mental Welfare Commission for Scotland (2011). Mental Health of Prisoners. Edinburgh, Mental Welfare Commission for Scotland. [↑](#endnote-ref-169)
170. See Mental Welfare Commission for Scotland report at http://www.mwcscot.org.uk/ [↑](#endnote-ref-170)
171. HMCIPS (2011). Her Majesty's Chief Inspector of Prisons for Scotland Annual Report 2010-2011. Edinburgh, HM Chief Inspector of Prisons for Scotland. [↑](#endnote-ref-171)
172. Ibid [↑](#endnote-ref-172)
173. Regulation 6A [↑](#endnote-ref-173)
174. http://www.sehd.scot.nhs.uk/mels/CEL2010\_09.pdf [↑](#endnote-ref-174)
175. Statement of concern on the impact of the Immigration Bill on Scotland’s communities signed by John Blackwood, Chief Executive, Scottish Association of Landlords; Graeme Brown, Director, Shelter Scotland; Mary Taylor, Chief Executive, Scottish Federation of Housing Associations; Alan Ferguson, Director, Chartered Institute of Housing; Dr John Gillies, Chair, Royal College of GPs in Scotland (health aspects only); Professor Tom Mullen, University of Glasgow (in personal capacity); John Wilkes, Chief Executive, Scottish Refugee Council; Sarah Craig, Convenor of GRAMNet, University of Glasgow (in personal capacity); Nazek Ramadan, Director, Migrant Voice; Pat Elsmie, Director, Migrants Rights Scotland. [↑](#endnote-ref-175)
176. Scottish Government (2009) ‘Limited Review of the Mental Health (Care and Treatment) (Scotland) Act 2003’. [↑](#endnote-ref-176)
177. Mental Welfare Commission for Scotland (2014) ‘Visit and monitoring report: Specified person monitoring’. [↑](#endnote-ref-177)
178. NHS Quality Improvement Service (2010) ‘Intensive Psychiatric Care Units: overview report’. [↑](#endnote-ref-178)
179. Section 1 Standards in Scotland's Schools etc. Act 2000 [↑](#endnote-ref-179)
180. Section 1 of the Education (Scotland) Act 1980 and section 2 Standards in Scotland's Schools etc. Act 2000 [↑](#endnote-ref-180)
181. The Getting it Right for Every Child is a policy framework in Scotland that is based on the Children’s Charter (Protecting Children and Young People Charter 2004), the UN Convention of the Rights of the Child, legislation, standards, procedures, professional expertise and 10 core principles to ensure positive outcomes for every child in Scotland, http://www.scotland.gov.uk/Topics/People/Young-People/gettingitright/background [↑](#endnote-ref-181)
182. Scottish Government (2014) School Safety – School Exclusions: High Level Summary of Statistics Trend (amended February 2014). Edinburgh: Scottish Government. [↑](#endnote-ref-182)
183. See Committee’s report ‘Where Gypsy/Travellers Live’ at <http://www.scottish.parliament.uk/S4_EqualOpportunitiesCommittee/Reports/eor-13-01w.pdf> [↑](#endnote-ref-183)
184. See also Scottish Government (2013) Scottish Government Equality Outcomes: Ethnicity Evidence Review, Edinburgh. [↑](#endnote-ref-184)
185. OECD report 2015 [↑](#endnote-ref-185)
186. UN Committee on the Rights of the Child (CRC), Consideration of reports submitted by States parties under article 44 of the Convention : Convention on the Rights of the Child : concluding observations : United Kingdom of Great Britain and Northern Ireland, 20 October 2008, CRC/C/GBR/CO/4 [↑](#endnote-ref-186)
187. EHRC Scotland, (2016) Is Scotland Fairer?, EHRC, Glasgow. [↑](#endnote-ref-187)
188. Scottish Funding Council, (2014), Higher Education Students and Qualifiers at Scottish Institutions, 2012-13, SFC/ST/04/2014. [↑](#endnote-ref-188)
189. See http://www.sccyp.org.uk/ufiles/Right-to-Play.pdf [↑](#endnote-ref-189)
190. Together (2013) State of Children’s Rights in Scotland [↑](#endnote-ref-190)