

## Detention, hate crime and human trafficking



### **Why recommendations on Scotland?**

The Scotland Act 1998 provided for the establishment of the Scottish Parliament and the Scottish Government. The Act sets out that all policy areas not explicitly reserved to the UK Parliament are devolved to the Scottish Parliament. The Scottish Parliament has full legislative powers over devolved matters. This means that 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.

Observing and implementing international human rights obligations relating to devolved matters is the responsibility of both the Scottish Parliament and Scottish Government Ministers.

While the UK is the State Party to the United Nations (UN), UN bodies have increasingly recognised the value of specific concluding observations and recommendations for the Scottish Government. This has been recognised as a way to ensure that law, policy and practice in Scotland is fully compliant with all international human rights law and policy.

## Issues

### Fifteen per cent of the prison population in Scotland is currently detained while awaiting trial.



Overcrowding remains a concern, particularly considering the poor state of the Victorian prisons. Poor mental health is disproportionately represented within the Scottish prison population. Access to appropriate mental health treatment and care of prisoners is a serious concern (recommendations 110.81 – 89).

Efforts have been made to tackle both hate crime and sectarianism in Scotland. Race related crime remains the most commonly reported hate crime. There were 3,712 charges reported in 2015-16. Sexual orientation aggravated crime is the second most common type of hate crime. There were 1,020 charges reported in 2015-16, an increase of 20% compared with 2014-15. The number of religiously aggravated charges also increased 3%. There were 201 charges related to disability, 14% more than in 2014-15. There were 287 charges reported under Section 1 of the Offensive Behaviour at Football and Threatening Communications (Scotland) Act 2012, 49% higher than in 2014-15.

Current data collection methods do not provide an accurate measurement of hate crime in Scotland. The introduction of third party reporting has not resulted in a marked increase in indirect reporting. As a result, under-reporting of all hate crime remains a particular concern (recommendations 110.160, 110.190 and 110.191)

Despite legislative and policy measures to address human trafficking, very few suspected traffickers have been prosecuted, with only six convictions to the end of 2016. Evidence indicates that individuals continue to be prosecuted for offences committed whilst victims of human trafficking. In 2015, 145 potential victims of trafficking in Scotland were referred to the National Referral Mechanism (NRM), a 31% increase on 2014 figures. Of these, 29% were children. However, inspections have found that relevant staff require additional training on trafficking indicators and the NRM (recommendations 110.72-76).

There are no statutory time limits on how long a person may be detained under immigration powers in the UK. The uncertainty is difficult for both the detainee and for those working in detention. In 2015, around 32,400 people entered immigration detention across the UK. Of these, 62% had been in detention for less than a month, 18% for between one and two months and 12% for between two and four months. Of the 2,521 (8%) remaining, 255 had been in detention for between one and two years and 41 for two years or longer. Neither the UK or Scottish Governments have expressed support for legislating to introduce a time limit. Decisions around immigration and asylum remain a matter for the UK Government and Parliament (recommendations 110.111-115).

# Recommendations



**The Scottish Government increases and promotes the use of alternatives to detention and rehabilitation and reintegration of offenders.**



**Both Scottish and UK Governments implement adequate training for all relevant personnel to recognise potential victims of human trafficking and increases awareness of the National Referral Mechanism.**



**The Scottish Government and public authorities take steps to improve data collection on hate crime and sectarianism, and develop participatory measures to combat hate crime and strengthen support services for victims.**



**Both Scottish and UK Governments ensure that places of detention in Scotland comply, at a minimum, with the protection of rights provided by international law and standards, including access to adequate health services and support.**



**The UK Government sets a statutory time limit for immigration detention and judicial oversight of detention (currently continued detention is subject to internal administrative review only).**



## Questions for the Government

What work is the Scottish Government undertaking to introduce alternatives to prison that contribute to successful rehabilitation and lower the number of prisoners in Scottish prisons?

What is the Scottish Government doing to ensure that people in detention receive appropriate health care services and support?

What plans do the UK and Scottish Governments have to ensure that adequate training is provided for all relevant personnel to recognise potential victims of human trafficking?

Is the Scottish Government taking any steps to systematically improve data collection on hate crime as well as strengthen support services for victims?

What action is the UK Government taking to set up strict time limits on detention?

The Scottish Human Rights Commission is the National Human Rights Institution for Scotland, accredited with A status by the Global Alliance of NHRIs. SHRC is one of the three NHRIs in the UK. SHRC is a member of the UK's National Preventive Mechanism (OPCAT) and the Independent Monitoring Mechanism for the Convention on the Rights of Persons with Disabilities in Scotland.

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