#

**The Scottish Human Rights Commission Submission to the United Nation’s Committee on the Elimination of All Forms of Discrimination Against Women**

**UK Examination**

**January 2019**

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) and member of the of the UK Independent Mechanism under CRPD.

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**General issues**

1. This parallel report for the CEDAW Committee is designed tobe read in conjunction with our [CEDAW LOI report](https://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=INT%2fCEDAW%2fIFL%2fGBR%2f31376&Lang=en) (June 2018). While both reports cover the same issues, they are complementary.[[1]](#footnote-1) Since our last report to the Committee, the Scottish Government has endorsed a set of recommendations on how Scotland can continue to lead by example in human rights.[[2]](#footnote-2) As part of this, we have recommended an Act of the Scottish Parliament which incorporates directly into Scots law those rights included in CEDAW (and the other UN treaties). SHRC believes this provides a real opportunity for Scotland to strengthen human rights protection for women. Therefore we suggest the Committee ask the Scottish Government:

**Q: What specific steps are being taken to ensure the implementation of the recommendations of the First Minister’s Advisory Group on Human Rights Leadership to incorporate international treaty obligations, including provisions of CEDAW into domestic law?**

2. While progress has been made in relation to women rights in the Scotland,[[3]](#footnote-3) it is important to note the lack of progress on a number of the Concluding Observations issued by the Committee in 2013 (discussed below). Furthermore a number of policy measures, particularly related to austerity, put women’s human rights at further risk. The final terms of the future relationship of the UK to the European Union (EU) and resulting implications are not yet known. However, it is widely predicted that any form of exit from the EU will have more of an adverse impact on women as the primary users of, and workers within, public services.[[4]](#footnote-4) In light of the incoming legal changes to the human rights framework in the UK and the high levels of political uncertainty after Brexit, it is key that the UK government ensures that there is no regression in the protection and realisation of women’s rights.

**Q: What steps will be taken to adopt effective measures to mitigate the negative economic impacts on women following withdrawal from the EU?**

**Q: What steps have been taken to ensure there is no future regression of the legal protection of women’s rights as a result of the UK leaving the EU?[[5]](#footnote-5)**

**Q: Will the UK affirm its commitment to retaining the Human Rights Act following withdrawal from the EU?**

3. In order to ensure effective equality monitoring, the Committee has recommended that the State put in place a system to collate gender-disaggregated data. However, there continues to be a lack of available official disaggregated data on intersectionality, which would provide vital information on women with multiple vulnerabilities and allow policy and legislation to be shaped to address those.

**Q: How are the UK and Scottish Governments planning to collate and publish disaggregated data on intersectionality relating to each of the CEDAW rights?**

**What this document covers:** The United Kingdom of Great Britain and Northern Ireland (UK) includes four countries – England, Scotland, Wales and Northern Ireland. This report covers the legal framework, policies and practices in **Scotland**. The Scotland Act 1998 which established the Scottish Parliament and devolved powers, 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 (devolved). In addition, ‘observing and implementing UK international human rights obligations’, including CEDAW, is devolved and should be taken forward by the Scottish Parliament or Scottish Ministers.[[6]](#footnote-6)

**Articles 2, 3 and 5**

**Legislative and Policy Measures**

4. CEDAW has still not been incorporated into domestic law as recommended by the Committee in 1999, 2008 and again in 2013.[[7]](#footnote-7) Furthermore, the UK is not a party to Protocol 12 to the ECHR, which contains a general prohibition of discrimination.

**Q: How are the Scottish and the UK Governments planning to incorporate CEDAW into domestic law? How will the Scottish Government systematically ensure that the legal and policy frameworks are compliant with international human rights obligations?**

**Violence Against Women**

5. The last few years have seen signiﬁcant movement on criminal justice and policy responses to tackle violence against women, including the *Domestic Abuse (Scotland) Act 2018[[8]](#footnote-8).* However, a comprehensive approach requires the Governmenttocontinue improving the legislative framework, (for example by ratifying and implementing the Istanbul Convention) and supporting greater awareness-raising for victims and survivors of domestic abuse, to encourage reporting and ensure that the broader scope of the protections provided by the Act are understood. Adequate funding is also required to ensure that women and children receive support to access the services they require. Training for prosecutors, local authorities and law enforcement is also required to ensure that the law is robustly enforced and accurate statistical records in relation to domestic violence exist.[[9]](#footnote-9)

6. The Commission is concerned about prevalent gaps and challenges across Scotland in providing specialist services for black and minority ethnic women experiencing domestic violence (especially asylum-seeking, refugee and trafficked women). Furthermore, local authority sources reveal that the number of families with No Recourse to Public Funds (NRPF) is increasing in Scotland. An Inquiry by the Equalities and Human Rights Committee of the Scottish Parliament (EHRiC) in 2017 on NRPF, highlighted that women and children survivors of domestic abuse who have insecure immigration status and NRPF are at ‘acute’ risk of suffering destitution due to hostile immigration policies.[[10]](#footnote-10)

**LGBTI Domestic Violence**

7. Research by Scottish Transgender Alliance found high levels of domestic abuse experienced by transgender people (80% of respondents had experienced emotional, sexual or physical abuse from a partner or ex-partner).[[11]](#footnote-11) There has only been limited research on LGBTI people’s experience of domestic abuse. Women’s Aid has highlighted that members of the LGBTI community can face additional abuse experiences such as fear of being ‘outed’[[12]](#footnote-12) and research by the ‘Voice Unheard’ project with LGBTI young people, found that 47.1% of young people said that fear of homophobia, biphobia or transphobia would make them less likely to access domestic support services.[[13]](#footnote-13)

**Sexual Violence**

8. The number of rape and attempted rape crimes recorded by the police increased by 20% between 2016/17 and 2017/18, while the number of sexual assaults rose by 13%.[[14]](#footnote-14) However, conviction rates remain low, as are the rates of attrition.[[15]](#footnote-15)

**Children**

9. While Scots law protects adults from all forms of physical assault, that is not the case for children. *The Criminal Justice (Scotland) Act 2003* provides a defence of justifiable assault of a child, available where it is claimed that such an act was physical punishment carried out in exercise of a parental right. This defence is contrary to numerous human rights standards. In 2018, a Bill for the equal protection of children from assault was introduced, which we welcome.[[16]](#footnote-16)

**Q: Will the Scottish Government support the Children (Equal Protection from Assault) (Scotland) Bill? What steps have the Government taken to promote positive non-violent forms of discipline as an alternative to corporal punishment?**

**Q: How will the Scottish Government ensure that all relevant public bodies are appropriately financed and trained to enforce the Domestic Abuse (Scotland) Act 2018?**

**Stereotyping**

10. Research and effective measures to address stereotyping and the objectification of women, particularly in advertising and the media, are lacking in Scotland. In 2017, a review into gender stereotyping in the UK found that current advertisements depict and promote harmful gender stereotypes. As a consequence, the Advertising Standards Authority is planning to develop new standards to provide stronger regulation of advertisements.[[17]](#footnote-17) A report into experience of young Muslims in Scotland showed that stereotyping of Muslim women in the media served as a barrier to political participation. Islamophobia and racism as a result of negative media reporting was felt to be an excluding factor, with young people feeling that positive contributions of Muslims were rarely reported[[18]](#footnote-18).

11. Much more needs to be done to eliminate the gender stereotypes, which are harmful and can limit opportunities for women and girls. For example, through training programmes, sustained awareness raising campaigns directed at men and women, and through encouraging the media to project a positive image of women and of the equal status and responsibilities of women and men in the private and public spheres.

**Q: What additional measures will the Governments take to eliminate gender stereotyping and objectification of women, particularly in the media?**

**Article 6**

**Trafficking in Women**

12. The Scottish government introduced the *Human Trafficking and Exploitation (Scotland) Act* in 2015 and published the *Trafficking and Exploitation Strategy* in May 2017. The first Annual progress report of the Human Trafficking and Exploitation Strategy group showed that the National Referral Mechanism (NRM) received 207 total referrals in Scotland in 2017, which was a 38% increase on the previous year. Of the 207 referrals, 63 were adult females (30.4%) and 24 were female minors (11.6%).[[19]](#footnote-19) However, the Annual Progress Report also shows that convictions are low. In 2017, there were two individuals convicted of trafficking offences under the Act. A report from the Modern Slavery Helpline also revealed that 93% of potential victims reported to the helpline for sexual exploitation were female, which is significantly higher than the proportion of female victims in Scotland generally[[20]](#footnote-20). Further engagement with the corporate sector is needed as 34% of businesses have not adhered to the UK Modern Slavery Act.[[21]](#footnote-21)

**Q: What steps are the Governments taking to ensure that public frontline staff and the private sector are appropriately trained for the identification and care of victims and the prevention of trafficking and exploitation?**

**Articles 7 and 8**

**Participation in Political and Public Life**

13. Women continue to be underrepresented in decision-making roles in the political and public sphere in the Scotland and the UK.[[22]](#footnote-22) Just over 36% of MSPs, and 24% of councillors are women in Scotland.[[23]](#footnote-23) All of Scotland’s female MSPs are white and non-disabled and the nation regressed in global rankings from 4th place in 2003 to 27th in 2017.[[24]](#footnote-24)

14. Some progress has been made with regards to regulated public bodies, with more women than men appointed in 2015/2016 for the first time. However, overall women accounted for only 42% of all regulated board members in that same period.[[25]](#footnote-25) Only 26% of public bodies are headed by women. Vertical occupational segregation is illustrated by the fact that 81% of the total NHS workforce is comprised of women, but 81% of NHS Board chairs are men.[[26]](#footnote-26) Women are also underrepresented in Scotland’s judiciary, accounting for just over 25% of all judicial office holders in 2017.[[27]](#footnote-27) Women continue to experience sexist behaviour while working in public bodies; a factor that constrains their participation.[[28]](#footnote-28) The recent Independent Review of Hate Crime in Scotland by Lord Bracadale recommended that due to the increased prevalence of abuse related to gender, a new aggravation on gender hostility should be introduced.[[29]](#footnote-29)

15. The *Gender Representation on Public Boards (Scotland) Act 2018*, sets out a gender representation objective for public boards to have women comprise 50% of their non-executive members.[[30]](#footnote-30) While secondary legislation will require Scottish Ministers and public authorities to report on progress, there are no sanctions in the Act against public authorities that fail to meet the objectives. The legislation does not take into account how women’s social identities overlap and intersect. At present the Scottish government does not publish statistics that show for example, the number of women in public life that are also disabled or from black and minority ethnic backgrounds.

**Q: How is the Scottish Government planning enforce the GRPB Act? How will it take into account the intersectionality of women’s identities?**

**Q: What is the Scottish Government doing to strengthen data collection to better understand the issue and measure progress?**

**Article 10**

**Education**

16. In November 2018 the Scottish Government announced that Scotland's schools will include focus on LGBTI issues as part of the curriculum, which we welcome. Research shows that sexist bullying and misogynistic behaviours are prevalent in education settings across Scotland.[[31]](#footnote-31) Scotland’s national approach to addressing bullying makes little reference to misogyny or gender based harassment.[[32]](#footnote-32) A recent investigation has revealed that school girls across Scotland are being subjected to alarming levels of sexual harassment on a daily basis.[[33]](#footnote-33)

**Q: Will the Scottish Government review its current anti-bullying strategy to ensure it expressly recognises gender-based bullying and take an intersectional approach?**

**Q: What steps are the Scottish Government taking to provide guidance materials relating to the recording, monitoring and inspection of bullying in schools, including improving data collection?**

**Article 11**

**Employment: Pay Gap and Occupational Segregation**

17. In Scotland the gender pay gap sits at 14% when comparing men and women's overall average hourly earnings.[[34]](#footnote-34) There has been a lack of Scottish specific research on factors driving Scottish pay gap. However, a 2018 report found that 4 factors are driving the pay gap: bonus earnings, size of a company a woman works for, Occupational Segregation and the ‘Gender residual’.[[35]](#footnote-35)

18. Women's employment is concentrated in the public sector, with 48% of working women represented in Public Administration, Education and Health industries. Around 80% of administrative and secretarial workers and those in personal service jobs are women. Only 10% of senior managers in the science, technology and engineering sector are women. Scotland's Modern Apprenticeship programme continues to be acutely segregated by gender, where women account for only [2%](http://www.skillsdevelopmentscotland.co.uk/media/42952/modern-apprenticeship-statistics-up-to-the-end-of-quarter-3-2016-17.pdf) of construction apprentices, [20%](https://www.closethegap.org.uk/content/resources/Making-Manufacturing-Work-for-Women---Summary-of-research-findings-Close-the-Gap-June-2015.pdf) of manufacturing apprentices but [97%](http://www.skillsdevelopmentscotland.co.uk/media/41670/ma-by-level-framework-and-gender-2015-2016-q4.pdf) of childcare apprentices, and [93%](http://www.skillsdevelopmentscotland.co.uk/media/42030/ma-by-level-framework-and-gender-2016-2017-q1.pdf) of hairdressing apprentices.[[36]](#footnote-36)

19. *The Equality Act (Gender Pay Gap Information) Regulations 2017* require large private and third sector organisations to report their top line pay gap, including the gender gap in bonus payments. However, the Regulations exclude smaller organisation with less than 250 employees. There is a requirement in Scotland for public bodies that employ 150 people or more to report gender pay gap information every two years. This requirement was extended to public bodies that employ 20 people or more in 2016. However, research has shown that reporting on the gender pay gap remains poor,

 “*with many bodies publishing incorrect calculations, flawed analysis, and little action, and many appear to view publishing their pay gap as an end in itself, rather than a driver for action to tackle the causes of the pay gap that exist within their own organisation. This indicates a lack of understanding of women’s labour market inequality in general*.”[[37]](#footnote-37)

The operation of the Public Sector Equality Duty to date appears to have had limited impact on tackling inequality, particularly the gender pay gap. While Scotland has introduced a number of strategies to address gender inequality,[[38]](#footnote-38) these are largely voluntary initiatives with no legal underpinning[[39]](#footnote-39).

**Q: What steps has the Scottish Government taken to develop a national strategy to address the causes of the gender pay gap, including targeted measures to reduce gender segregation?**

**Childcare**

20.The lack of affordable childcare remains a persistent problem in Scotland. Childcare costs in Scotland are amongst the highest in the UK, in turn among the highest in the world. Due to the high cost of childcare, 25% of parents living in absolute poverty in Scotland have given up work, a third have turned down a job, and a further 25% have not been able to take up education or training. The situation is worse still for services inclusive of disabled children, as well as those living in rural areas with limited access to affordable, high-quality and ﬂexible childcare.[[40]](#footnote-40) Any plans to increase affordable childcare should be part of a coherent strategy, including that those caring for children will receive a living wage.

**Q: What is the Scottish Government doing to introduce available and accessible free universal childcare in Scotland?**

**Parental Leave**

21. Regulations introduced in 2015 enable parents to share leave over the course of a year following the birth or adoption of a child.[[41]](#footnote-41) However, the Regulations fail to meet the financial needs of women and families. Fathers are still only entitled to two weeks of paid paternity leave, while the weekly payment for shared parental leave is less than the average weekly income for men in the UK.[[42]](#footnote-42) This means that for many families it is simply financially unviable for the father to take parental leave. As a consequence, there has been very low take up (around 2%) of the arrangements by fathers.[[43]](#footnote-43) Evidence has shown that countries with effective paternity leave policies are often those that offer well-paid, flexible but non-transferable policies.[[44]](#footnote-44)

**Q:** **What measures are the UK and the Scottish Governments taking to address the financial barriers to shared parental leave?**

**Women in Rural Areas**

22. Women living in remote rural areas have the lowest annual income and largest gender pay gap.[[45]](#footnote-45) Low earnings are further impacted by having to pay more for food, fuel and other goods than in the rest of the country. To counter this, Scottish Rural Action suggests that remote rural incomes would need to be between a tenth and a third higher to make them comparable with rest of Scotland.[[46]](#footnote-46)

**Q: What steps are the Scottish Government taking to ensure women in rural areas have full enjoyment of socio-economic rights?**

**Articles 12 and 13**

**Health**

23. Problems remain in Scotland with regards to access to gender appropriate physical and mental healthcare.[[47]](#footnote-47) Depression is twice as prevalent amongst women as men and amongst low-income women in particular.[[48]](#footnote-48) The latter are more likely to be disabled or from a black or minority ethnic background. Mental health problems are exacerbated for refugee and asylum seeking women and the asylum process itself can become a source of anxiety and deteriorating mental health.[[49]](#footnote-49) Disabled women and LGBTI report discrimination in accessing information and services regarding their reproductive health.[[50]](#footnote-50)

**Q: How is the Scottish Government planning to develop mental health strategies that consider intersectional discrimination and ensure equal access to the health care for all women and girls?**

**Women’s Detention**

24. Scotland has one of highest rates of imprisonment of women in Europe- the growth in number of women in prisons is attributed to rise in use of custodial sentences, as opposed to changes in patterns of offending.[[51]](#footnote-51) While the general treatment of women in prison has improved in the last 4 years, questions remain in relation to specific issues, including mental health services, rehabilitation programmes and reintegration into the community.[[52]](#footnote-52) Women in prison are more likely to be involved in self-harm than men. In 2016/17 women accounted for 26% of self-harm incidents in prison.[[53]](#footnote-53) Foreign female prisoners also experienced heightened levels of isolation due to limited access to appropriate educational and recreational activities, as well as the lack of translated and culturally appropriate materials.[[54]](#footnote-54)

25. Women are more likely to be jailed than men for minor offences and two thirds of female admissions to Scottish prisons are for remand, 70% of which do not go on to receive a custodial sentence.[[55]](#footnote-55) Therefore, much work is still needed to reduce the female prison population [[56]](#footnote-56) by changes to sentencing policy and alternatives to custodial sentences.[[57]](#footnote-57) A high percentage of women prisoners are mothers and the impact of parental imprisonment on children can be profound. Maintaining child-parent relations can positively impact not only the child, but also the imprisoned parent, prison staff and society in general by better preparing prisoner for release and social reintegration.[[58]](#footnote-58)

**Q: Could the Scottish Government indicate their plans for gender-specific alternatives to custody, in line with the Committee’s recommendations in 2013?[[59]](#footnote-59)**

**Q: Will the Scottish Government adopt the Council of Europe Recommendation CM/Rec(2018)5, aimed at safeguarding the rights and interests of children of imprisoned parents?**

**Welfare Reform**

26. Successive changes to the social security system in the UK have had significant negative impact on women.[[60]](#footnote-60) This impact has been highlighted by SHRC and Civil Society Organisations since 2012. The UN Special Rapporteur on extreme poverty and human rights during his recent visit to the UK found that the costs of austerity have fallen disproportionately upon women amongst others.[[61]](#footnote-61) This is particularly adverse for lone parents, disabled women and black and minority ethnic women.[[62]](#footnote-62) Since the introduction of benefit cap in April 2013, almost 11,000 Scottish Households have been subject to the Benefit Cap at one time, and since the cap was lowered in 2016, 3,500 households have been capped each month.[[63]](#footnote-63) The Scottish Government has highlighted that UK government reduction in spending on welfare is key driver of increased poverty rates, especially for lone parents and families with three or more children.[[64]](#footnote-64) They estimate that by 2021/22 the share of children living in relative poverty after housing costs will have increased by 8% as a result of tax and welfare reforms.[[65]](#footnote-65)

27. Limited powers on social security were devolved to the Scottish Parliament in 2016. The Social Security (Scotland) Act 2018 addresses some of the impacts of Westminster’s welfare reforms and is built on the principles of human dignity and social security as a human right. However, the Act stops short of directly linking the conduct of Scottish Ministers and Scottish public authorities to the content of the right to social security. This leaves a clear accountability gap for delivery.

**Q: How is the Scottish Government planning to incorporate the right to social security into domestic legislation and implement in practice?**

**Article 15**

**Access to Justice and Legal Aid**

28. There still exist significant barriers for women to engage in the criminal justice system in Scotland.[[66]](#footnote-66) In terms of legal aid, the amount of budget allocated to legal aid in 2018/19 has increased from the 2017/18, however, the increase is allocated to administrative costs rather than legal aid itself. The Law Society of Scotland’s view is that with the current rate of inflation, it would need to be higher to maintain the same level of funding in real terms[[67]](#footnote-67). Independent research into Legal Aid firms highlights some key concerns with the system, including poor rates of pay, “*undue bureaucracy and extreme micromanagement performed by the Scottish Legal Aid Board…*”[[68]](#footnote-68) The Law Society called for fees to increase and budget goals to be relaxed as a prerequisite to ensure equality of access to legal advice. It is well documented that any decline in legal aid means less protection for women, as a high level of legal aid work is carried out in respect of issues that disproportionately impact on women including child contact, divorce and protective orders.[[69]](#footnote-69)

**Q: How is the Scottish Government planning to respond to the recommendations of the Independent Review of Legal Aid?**

**Q: What steps are the Scottish Government taking to monitor the gender impact of reductions to legal aid?**

1. **Annex. 1 SHRC Summary of Questions**What specific steps are being taken to ensure the implementation of the recommendations of the First Minister’s Advisory Group on Human Rights Leadership to incorporate international treaty obligations, including provisions of CEDAW into domestic law?
2. What steps will be taken to adopt effective measures to mitigate the negative economic impacts on women following withdrawal from the EU?
3. What steps have been taken to ensure there is no future regression of the legal protection of women’s rights as a result of the UK leaving the EU?
4. Will the UK affirm its commitment to retaining the Human Rights Act following withdrawal from the EU?
5. How are the UK and Scottish Governments planning to collate and publish disaggregated data on intersectionality relating to each of the CEDAW rights?
6. How are the Scottish and the UK Governments planning to incorporate CEDAW into domestic law? How will the Scottish Government systematically ensure that the legal and policy frameworks are compliant with international human rights obligations?
7. Will the Scottish Government support the Children (Equal Protection from Assault) (Scotland) Bill? What steps have the government taken to promote positive non-violent forms of discipline as an alternative to corporal punishment?
8. How will the Scottish Government ensure that all relevant public bodies are appropriately financed and trained to enforce the Domestic Abuse (Scotland) Act 2018?
9. What additional measures will the Governments take to eliminate gender stereotyping and objectification of women, particularly in the media?
10. What steps are the Governments taking to ensure that public frontline staff and the private sector are appropriately trained for the identification and care of victims and the prevention of trafficking and exploitation?
11. How is the Scottish Government planning enforce the GRPB Act? How will it take into account the intersectionality of women’s identities?
12. What is the Scottish Government doing to strengthen data collection to better understand the issue and measure progress?
13. Will the Scottish Government review its current anti-bullying strategy to ensure it expressly recognises gender-based bullying and take an intersectional approach?
14. What steps are the Scottish Government taking to provide guidance materials relating to the recording, monitoring and inspection of bullying in schools, including improving data collection?
15. What steps has the Scottish Government taken to develop a national strategy to address the causes of the gender pay gap, including targeted measures to reduce gender segregation?
16. What is the Scottish Government doing to introduce available and accessible free universal childcare in Scotland?
17. What measures are the UK and the Scottish Governments taking to address the financial barriers to shared parental leave?
18. What steps are the Scottish Government taking to ensure women in rural areas have full enjoyment of socio-economic rights?
19. How is the Scottish Government planning to develop mental health strategies that consider intersectional discrimination and ensure equal access to the health care for all women and girls?
20. Could the Scottish Government indicate their plans for gender-specific alternatives to custody, in line with the Committee’s recommendations in 2013?
21. Will the Scottish Government adopt the Council of Europe Recommendation CM/Rec(2018)5, aimed at safeguarding the rights and interests of children of imprisoned parents?
22. How is the Scottish Government planning to incorporate the right to social security into domestic legislation and implement in practice?
23. How is the Scottish Government planning to respond to the recommendations of the Independent Review of Legal Aid?
24. What steps are the Scottish Government taking to monitor the gender impact of reductions to legal aid?

**Annex. 2 Summary of Recommendations from our List of Issues Report**

Please note, the full submission can be accessed [here](https://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=INT%2fCEDAW%2fIFL%2fGBR%2f31376&Lang=en).

1. That the UK and Scotland incorporate the provisions of CEDAW into its domestic law.
2. That the UK affirm its commitment to retaining the Human Rights Act following withdrawal from the EU.
3. That the UK takes all necessary steps to ensure there is no future regression of the legal protection of women’s rights as a result of the UK leaving the European Union. This includes: tracking of future legal developments an EU level after exit, and where appropriate mirroring protections; retaining the EU Charter of Fundamental Rights and the right to bring a claim based on breach of general principles of EU law; ensuring courts can properly consider future judgments of the Court of Justice of the European Union (CJEU) where it is relevant to any matter before the court; and introducing enhanced scrutiny over the use of delegated powers to amend equality rights.
4. That the UK and Scottish Government adopt effective measures to mitigate the negative economic impacts on women following withdrawal from the EU.
5. That the UK and Scottish Government urgently collate and publish disaggregated data on intersectionality relating to each of the CEDAW rights.
6. That the UK ratify the Council of Europe’s Convention on Preventing and Combating Violence Against Women and Domestic Violence ( the Istanbul Convention) as a matter of urgency.
7. That the UK and Scotland bring forward the improvements in law, policy and practice that are required to guarantee on-going and coherent compliance with the Istanbul Convention.
8. That the Scottish government seeks to ensure that all relevant agencies are appropriately trained to enforce the Domestic Abuse (Scotland) Bill and ensure that women and children receive the support and services required.
9. That the UK extend the Destitute Domestic Violence Concession to all women with insecure immigration status for as long as they remain in the UK.
10. That the Scottish government introduces legislation that prohibits corporal punishment of children in all settings and further promotes positive non-violent forms of discipline as an alternative to corporal punishment across Scotland.
11. That the Scottish Government engages with the media and private sector to eliminate the dissemination of stereotypical imaging of women and their objectification, especially in advertising.
12. That the Scottish Government and the UK ensure that frontline staff in all relevant agencies are appropriately trained to identify and assist victims of trafficking.
13. That the Scottish Government increases efforts to increase the representation of women in all aspects of political and public life, taking into full account the intersectionality of women’s identities.
14. That the Scottish Government strengthens data collection and maintain disaggregated data to better understand the issue and measure progress, including in relation to SDG reporting and the NPF.
15. That the Scottish Government reviews the current anti-bullying strategy to ensure it expressly recognises gender-based bullying and misogynistic behaviour in schools.
16. The Scottish Government develops a national strategy to address the causes of the gender pay gap including a commitment to mainstream gender in the design and development of new legislation, policies and programmes.
17. That the Scottish Government develops a model of free universal childcare provision that offers flexibility, considering both the needs of children and the situations of parents
18. That the UK address the financial barriers to take up of shared parental leave by fathers and the Scottish Government develops a programme to address the inadequacy of parental leave.
19. That the Scottish Government increases its efforts to raise awareness of parental leave entitlement and work with employers to address the cultural barriers to take up.
20. That the Scottish Government develops mental health strategies that consider intersectional discrimination and ensure equal access to the health care, particularly through national training programme of medical personnel and students.
21. That the Scottish Government ensures that NHS services focus on equality of access for diverse groups of women.
22. That the Scottish Government continues to develop gender-specific alternatives to custody for women convicted of minor offences, in line with the Committee’s recommendations in 2013.
23. That the Scottish Government ensures that the new social security system addresses the problems experienced by women and continue to mitigate against the negative impacts of welfare reform on the most vulnerable, particularly disabled women, black and minority ethnic women and lone mothers.
24. That Universal Credit payments be split as a matter of routine to ensure that women have independent access to resources.
25. That the Scottish Government urgently establishes a national independent Commission on social care funding.
26. That the Scottish Government responds positively to the recommendations of the Independent Review of Legal Aid in order to make the service fairer and simpler for users.
27. That the Scottish Government initiates a further review into rates of pay for Legal Aid and ensure that the review is gender proofed.
1. This report draws primarily on our operational work, including interventions and responses to legislative and policy proposals, the evidence gathered through the implementation of SNAP and the voices of women who are engaged in events run by the Scottish civil society organisation Engender, and also draws on other and more recent institutional, academic and external sources. [↑](#footnote-ref-1)
2. See *Recommendations for a new human rights framework to improve people’s lives: Report to the First Minister* (Dec 2018): <http://humanrightsleadership.scot/wp-content/uploads/2018/12/First-Ministers-Advisory-Group-on-Human-Rights-Leadership-Final-report-for-publication.pdf> [↑](#footnote-ref-2)
3. See our LOI report to the CEDAW Committee (June 2018) and the Scottish and UK government’s report, which provides an extensive overview of the steps taken for the implementation of the Convention. [↑](#footnote-ref-3)
4. See for example: *Exploring the Economic Impact of Brexit on Women* (March 2018) by the UK Women’s Budget Group (WBG). (<https://wbg.org.uk/wp-content/uploads/2018/03/Economic-Impact-of-Brexit-on-women-briefing-FINAL-1.pdf>). WBG is an independent, voluntary organisation made up of individuals from Academia, NGOs and trade unions. See also <https://www.edf.org.uk/edf-gendering-brexit-blog-series-deal-or-no-deal-brexit-is-bad-news-for-women/>. [↑](#footnote-ref-4)
5. This includes: tracking of future legal developments at EU level after exit, and where appropriate mirroring protections; retaining the EU Charter of Fundamental Rights and the right to bring a claim based on breach of general principles of EU law; ensuring courts can properly consider future judgements of the Court of Justice of the European Union as appropriate; and ensuring proper scrutiny over the use of delegated powers to amend equality rights. [↑](#footnote-ref-5)
6. Scotland Act 1998, paragraph 7(2)(a) of Schedule 5. 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. [↑](#footnote-ref-6)
7. *Concluding Observations of the UNCEDAW Committee*, (2013) CEDAW/C/GBR/CO/07 [↑](#footnote-ref-7)
8. The *Domestics Abuse (Scotland) Act* *2018* can be viewed at: <http://www.legislation.gov.uk/asp/2018/5/contents/enacted> [↑](#footnote-ref-8)
9. The government announced £165,000 of dedicated training funding for Scottish Women’s Aid and also additional funding to train police officers on the new Act. See: <https://www.theguardian.com/society/2018/feb/01/scotland-set-to-pass-gold-standard-domestic-abuse-law> [↑](#footnote-ref-9)
10. The Destitute Domestic Violence Concession, which allows people on a UK partner visa to claim certain welfare benefits in cases of domestic violence, does not apply to women with no recourse to public funds. See: *Hidden Lives- New Beginnings: Destitution, Asylum and Insecure Immigration status in Scotland* (22 May 2017) Equalities and Human Rights Committee, SP Paper 46, 3rd Report (session 5). [↑](#footnote-ref-10)
11. See: *Out of Sight, Out of Mind? Transgender People’s Experience of Domestic Abuse* (2013), Scottish Transgender Alliance: <https://www.scottishtrans.org/wp-content/uploads/2013/03/trans_domestic_abuse.pdf> [↑](#footnote-ref-11)
12. See: *Speaking Out: Recalling Women’s Aid in Scotland: 40 Year of Women’s Aid in Scotland* (2017) Women’s Aid: <https://womenslibrary.org.uk/gwl_wp/wp-content/uploads/2017/12/Speaking-Out-40-years-of-Womens-Aid-1.pdf> [↑](#footnote-ref-12)
13. See: ‘Safe Lives’ blog on LGBT young people’s experience of domestic abuse (Feb 2017): <http://safelives.org.uk/practice_blog/lgbt-young-peoples-experiences-domestic-abuse> [↑](#footnote-ref-13)
14. *Justice Statistics, Safer Communities & Justice Brief* (November 2018):

<https://www2.gov.scot/Topics/Statistics/Browse/Crime-Justice/Justicebrief> [↑](#footnote-ref-14)
15. See: *Is Scotland Fairer?*: *The State of Equality and Human Rights in 2018* (2018) Equality and Human Rights Commission <https://www.equalityhumanrights.com/en/publication-download/scotland-fairer-2018> [↑](#footnote-ref-15)
16. The **Children (Equal Protection from Assault) (Scotland) Bill** has been welcomed by the SHRC and Scotland’s Commissioner for Children and Young People. The Bill is currently at Stage 1. [↑](#footnote-ref-16)
17. *‘New rule to ban harmful gender stereotypes next year’* (2017)Advertising Standards Authority <https://www.asa.org.uk/news/new-rule-to-ban-harmful-gender-stereotypes-next-year.html> [↑](#footnote-ref-17)
18. See: *Muslim Youth and Political Participation in Scotland* (2017) by Finlay, R., Hopkins, P. and Sanghera, G <https://research.ncl.ac.uk/media/sites/researchwebsites/youngmuslims/MuslimYouthScotland.pdf> [↑](#footnote-ref-18)
19. *Human Trafficking and Exploitation Strategy: First Annual Report* (14th June 2018),

<https://www.gov.scot/publications/human-trafficking-exploitation-strategy-first-annual-progress-report/> [↑](#footnote-ref-19)
20. See: *Modern Slavery in Scotland: A view from Unseen’s Modern Slavery Helpline* (June 2018) <https://www.modernslaveryhelpline.org/uploads/20180613230226659.pdf> [↑](#footnote-ref-20)
21. See: *Options for Multi-Sectional Engagement on Human Trafficking and Modern Slavery in Scotland: Summary of Proceedings* from See Me, Free Me Conference on Human Trafficking and Modern Slavery in Scotland (March 2018): <https://docs.wixstatic.com/ugd/918b38_cea8894ba6bc41689177538f0a99cbed.pdf> [↑](#footnote-ref-21)
22. Under the Scottish Government cabinet reshuffle which took place in June 2018, 6 out of 12 (50%) of cabinet members are now women. 7 out of 16 (44%) ministers are women. [↑](#footnote-ref-22)
23. *Women in Parliament and Government’* (February 2018) House of Commons Briefing Paper Number SN01250 [http://researchbriefings.files.parliament.uk/documents/SN01250/SN01250.pdf see](http://researchbriefings.files.parliament.uk/documents/SN01250/SN01250.pdf%20see) also <https://www.scotsman.com/news/politics/general-election/number-of-women-councillors-in-scotland-rises-but-remains-low-1-4442054> [↑](#footnote-ref-23)
24. *Gender Matters Roadmap: Towards Women’s Equality in Scotland* (September 2017) Engender <https://gendermatters.engender.org.uk/content/resources/Gender-Matters-Roadmap---towards-womens-equality-in-Scotland.pdf> [↑](#footnote-ref-24)
25. Commissioner for Ethical Standards in Public Life in Scotland Annual Report 2015/2016 [↑](#footnote-ref-25)
26. *Gender Matters Roadmap: Towards Women’s Equality in Scotland* (September 2017) Engender <https://gendermatters.engender.org.uk/content/resources/Gender-Matters-Roadmap---towards-womens-equality-in-Scotland.pdf> [↑](#footnote-ref-26)
27. *2017 Judicial Diversity statistics - Gender and Age* (September 2017)

<http://www.scotland-judiciary.org.uk/Upload/Documents/DiversityStatsScotlandSept2017.pdf> [↑](#footnote-ref-27)
28. *UK Parliament Report on Sexual harassment of women and girls in public places* (2018). Available at: <https://publications.parliament.uk/pa/cm201719/cmselect/cmwomeq/701/70102.htm>. See also Guardian article <https://www.theguardian.com/world/2018/mar/01/sturgeon-shocked-by-holyrood-survey-on-sexism-and-abuse> [↑](#footnote-ref-28)
29. See: *Independent Review of Hate Crime Legislation in Scotland: Final Report* (May 2015: <https://www.gov.scot/binaries/content/documents/govscot/publications/report/2018/05/independent-review-hate-crime-legislation-scotland-final-report/documents/00535892-pdf/00535892-pdf/govscot%3Adocument> [↑](#footnote-ref-29)
30. *The Gender Representation on Public Boards (Scotland) Act 2018* <http://www.legislation.gov.uk/asp/2018/4/pdfs/asp_20180004_en.pdf?view=interweave> [↑](#footnote-ref-30)
31. See for example: *It Is Not Cool to Be Cruel: Prejudiced-based bullying and Harassment of Children and Young People in Schools*  (July 2017) Report of Equality and Human Rights Committee Inquiry <http://www.parliament.scot/S5_Equal_Opps/Inquiries/EHRiC_5th_Report_2017_SP_Paper_185.pdf>

See also: *Get it Right for Girls* (2016) Educational Institute of Scotland <https://www.eis.org.uk/policy-and-publications/get-right-girls> [↑](#footnote-ref-31)
32. *Gender Matters Roadmap: Towards Women’s Equality in Scotland* (September 2017) Engender <https://gendermatters.engender.org.uk/content/resources/Gender-Matters-Roadmap---towards-womens-equality-in-Scotland.pdf> [↑](#footnote-ref-32)
33. See for example: *UK House of Commons Women and Equalities Committee: Sexual harassment of women and girls in public places, Sixth Report of Session* (2018). . Information for the report was gathered from a number of organisations including the Scottish Commissioner for Children and Young People, Rape Crisis Scotland and Girlguiding Scotland**.** See also *Revealed: the scandal of sexual harassment in Scottish schools* (November 2017) The Herald:<http://www.heraldscotland.com/news/15656022.Revealed__the_scandal_of_sexual_harassment_in_Scottish_schools/> [↑](#footnote-ref-33)
34. Office for National Statistics Gender Pay Gap Statistics- Provisional 2018: <https://www.ons.gov.uk/employmentandlabourmarket/peopleinwork/earningsandworkinghours/datasets/annualsurveyofhoursandearningsashegenderpaygaptables> [↑](#footnote-ref-34)
35. Gender residual is the unobserved individual characteristics on which no information is included in the research. See: *The Gender Penalty: Exploring the Causes and Solutions to Scotland’s Pay Gap* (Feb 2018) Close the Gap. [↑](#footnote-ref-35)
36. Close the Gap statistics <https://www.closethegap.org.uk/content/gap-statistics/> [↑](#footnote-ref-36)
37. *Making Progress? An Assessment Of Public Sector Employers’ Compliance With The Public Sector Equality Duty* (2015) Close The Gap<https://www.closethegap.org.uk/content/resources/Making-Progress---An-assessment-of-employers-compliance-with-PSED-November-2015.pdf> [↑](#footnote-ref-37)
38. For example, the *Scottish Business Pledge and the Partnership for Change 50/50 by 2020* [↑](#footnote-ref-38)
39. See: *Gender Pay Gap Reporting* Report of House of Commons Business, Energy and Industrial Strategy Committee, (23rd July 2018). Thirteenth report of the sessions 2017-2019. [↑](#footnote-ref-39)
40. *Gender Matters Roadmap: Towards Women’s Equality in Scotland* (September 2017) Engender https://gendermatters.engender.org.uk/content/resources/Gender-Matters-Roadmap---towards-womens-equality-in-Scotland.pdf [↑](#footnote-ref-40)
41. The Shared Parental Leave Regulations 2014 [↑](#footnote-ref-41)
42. *Parents, Work and Care: Striking the Balance* (Jemima Olchawski, 2016) The Fawcett Society. Fathers are entitled to 90% of their salary or £145.15 a week, whichever is the lowest. Given that the mean weekly pay for men in the UK is just under £600 for many this represents a significant cut in earnings at a time when costs are increasing and their partner is also likely to be earning less. <https://www.fawcettsociety.org.uk/Handlers/Download.ashx?IDMF=ee914eef-9b45-4f6e-84c5-57c0547727b4> [↑](#footnote-ref-42)
43. *Shared parental leave take-up may be as low as 2%* (February 2018) BBC News <http://www.bbc.co.uk/news/business-43026312> [↑](#footnote-ref-43)
44. [*‘*Parental leave: Where are the fathers?’](https://www.oecd.org/policy-briefs/parental-leave-where-are-the-fathers.pdf) (March 2016) Policy Brief, Organisation for Economic Co-operation and Development [accessed: 29 April 2018]. [↑](#footnote-ref-44)
45. *Understanding the Scottish Rural Economy* (Feb 2018) Scottish Government: <https://www.gov.scot/publications/understanding-scottish-rural-economy/> [↑](#footnote-ref-45)
46. See: *Briefing Paper: Understanding the Scottish Rural Economy* (March 2018) Scottish Rural Action <https://www.sra.scot/wp-content/uploads/2018/03/Briefing-Paper-Understanding-the-Scottish-Rural-Economy.pdf> [↑](#footnote-ref-46)
47. *What do you mean, I have a right to health? Participatory action research on health and human rights* (2016) Abulkadir et. al, University of Strathclyde. [↑](#footnote-ref-47)
48. See Health section of *Gender Matters Roadmap: Towards Women’s Equality in Scotland*, Engender: <https://gendermatters.engender.org.uk/content/health/> [↑](#footnote-ref-48)
49. *Raising Refugee Women’s Voices Exploring the impact of Scottish Refugee Council’s work with the Refugee Women’s Strategy Group 2011-2015* Scottish Refugee Council

<http://www.scottishrefugeecouncil.org.uk/assets/0001/0713/Impact\_Report\_FINAL.pdf> [↑](#footnote-ref-49)
50. *Gender Matters Roadmap: Towards Women’s Equality in Scotland* (2017), Engender: <https://gendermatters.engender.org.uk/content/health/> [↑](#footnote-ref-50)
51. See: *Why Focus on Women’s Imprisonment in Scotland? Prison Reform Trust Briefing* March 2017: <http://www.prisonreformtrust.org.uk/Portals/0/Documents/Women/why%20women_Scotland_final.pdf> [↑](#footnote-ref-51)
52. SHRC is a UK NPM member and inspects prison in Scotland, jointly with HMIPS since 2015. [↑](#footnote-ref-52)
53. *Is Scotland Fairer?:* *The State of Equality and Human Rights in 2018* (2018) Equality and Human Rights Commission. <https://www.equalityhumanrights.com/en/publication-download/scotland-fairer-2018> [↑](#footnote-ref-53)
54. *Report On HMP & YOI Cornton Vale Full Inspection* 28 September - 7 October 2015. [↑](#footnote-ref-54)
55. See: *Law Society of Scotland Submission to the Justice Committee* (25th January 2018): <http://www.parliament.scot/S5_JusticeCommittee/Inquiries/Remand-LSS.pdf> [↑](#footnote-ref-55)
56. See for example, HMP & YOI Cornton Vale Review Inspection 11-13 October 2016 [↑](#footnote-ref-56)
57. ‘*Overcrowding warning over Scottish female prison plans’* (June 2016) BBC News

<http://www.bbc.co.uk/news/uk-scotland-36427375> [↑](#footnote-ref-57)
58. See for example: *Children affected by the imprisonment of a family member* (2015), Barnardos NI

 available at <http://www.barnardos.org.uk/16871_schools_handbook_prisons_2015_v4.pdf> and

Fee, M. (2015) *Proposed Support for Children (Impact of Parental Imprisonment) (Scotland) Bill Summary of Consultation* responses available at [www.parliament.scot/S4\_MembersBills/20150907SummaryFinal.pdf](http://www.parliament.scot/S4_MembersBills/20150907SummaryFinal.pdf) [↑](#footnote-ref-58)
59. Concluding Observations of the CEDAW Committee (2013) CEDAW/C/GBR/CO/07 [↑](#footnote-ref-59)
60. *The Cumulative Impact of Tax and Welfare Reforms* (2018) Equality and Human Rights Commission <https://www.equalityhumanrights.com/sites/default/files/cumulative-impact-assessment-report.pdf> [↑](#footnote-ref-60)
61. Statement on Visit to the United Kingdom, by Professor Philip Alston, United Nations Special Rapporteur on extreme poverty and human rights, London 26 November 2018, available at https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=23881&LangID=E [↑](#footnote-ref-61)
62. Black and minority ethnic women are more likely to be living in poor households. In 2015/16, 50% of Bangladeshi households, 46% of Pakistani households and 40% of Black African/Caribbean households were living in poverty compared to 19% of White British households. (*Intersecting inequalities: The impact of austerity on Black and Minority Ethnic women in the UK* (October 2017) Women’s Budget Group) [↑](#footnote-ref-62)
63. *2018 Annual Report on Welfare Reform*, Scottish Government: <https://www.gov.scot/binaries/content/documents/govscot/publications/report/2018/10/2018-annual-report-welfare-reform-9781787812628/documents/00541015-pdf/00541015-pdf/govscot%3Adocument> [↑](#footnote-ref-63)
64. As of April 2017 there has been a two-child limit on a number of benefits, including Housing Benefit and Universal Credit. This means that families will not receive a range of benefits for a third child born after April 2017 except under exceptional circumstances. 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. For further info see SHRC’s 2016 report to ICESR and CRC. 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. Case Ref: (2015) UKSC 16 [↑](#footnote-ref-64)
65. See fn 58 [↑](#footnote-ref-65)
66. See for example*: Scottish Women’s Rights Centre : Response to the Justice Committee’s call for evidence on civil actions for damages in respect of rape or other serious crimes.* Available at <https://www.scottishwomensrightscentre.org.uk/resources/SWRC-Evidence-to-Justice-Committee.pdf>or the *Thematic Review of the Investigation and Prosecution of Sexual Crimes* (2017) Inspectorate of Prosecution, found that the system “*.. places an onus on victims to seek updates, decide about special measures, find appropriate support, deal with the shifts and uncertainties in scheduling of trials and narrate what happened in an environment over which they have no control. For many dealing with the trauma of the offence, the process is too much and it explains why many simply disengage”. Available at:* <http://www.gov.scot/Publications/2017/11/3053> [↑](#footnote-ref-66)
67. While the 2018/19 legal aid budget of 137.4 million was an increase on the previous year, it has been estimated that with current rate of inflation it would need to be 141.2 million to maintain same level of funding in real terms. See: ‘*Continuing Real Term Cuts to Legal Aid are Driving Inequality says Law Society of Scotland’* (2018) Commonspace blog: <https://www.commonspace.scot/articles/12151/continuing-real-terms-cuts-legal-aid-are-driving-inequality-says-law-society-scotland> [↑](#footnote-ref-67)
68. *The Financial Health of Legal Aid Firms in Scotland* (February 2017) Law Society of Scotland <https://www.lawscot.org.uk/media/10079/legal-aid-financial-health-report-february-2017.pdf> [↑](#footnote-ref-68)
69. The recent Report of the Joint Committee on Human Rights Committee confirmed that access to justice is a pre-condition necessary for the enforcement of human rights and that measures which limit access to legal aid have a disproportionate impact on disabled people, women, children and migrants. *Enforcing Rights* (11th July 2018)- Tenth Report of Session 2017-19, House of Commons, Housing of Lords Joint Committee on Human Rights: <https://publications.parliament.uk/pa/jt201719/jtselect/jtrights/669/669.pdf> [↑](#footnote-ref-69)