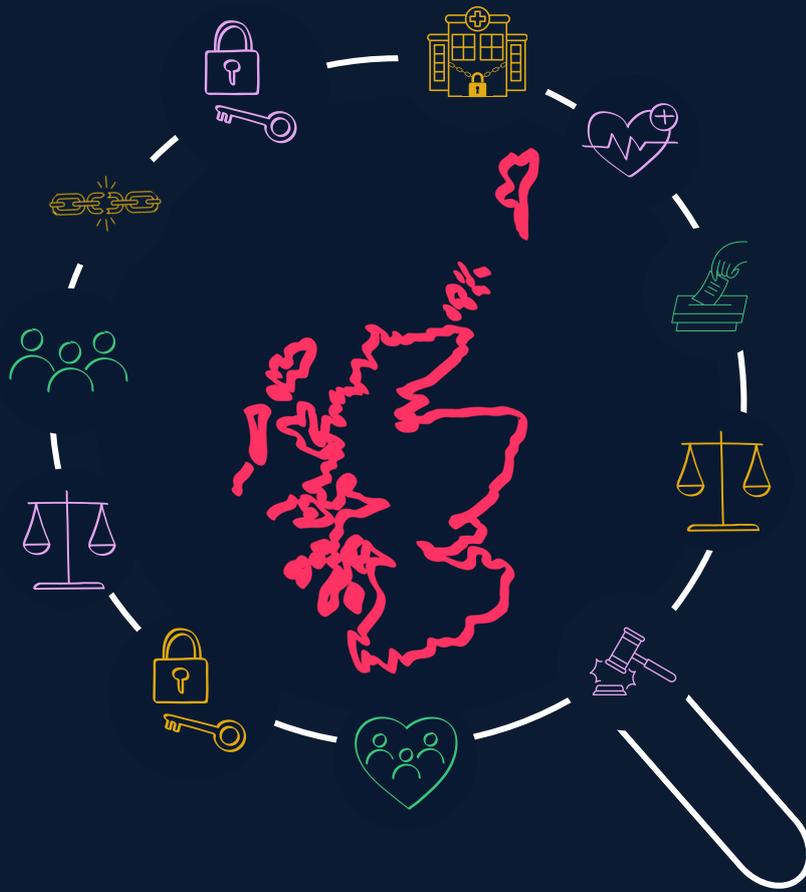


# SHRC

Scottish  
Human Rights  
Commission

Briefing to  
Parliament



## State of the Nation:

## Civil and Political Rights in Scotland 2024

# Briefing to the Scottish Parliament: Scottish Human Rights Commission State of the Nation report 2024

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The Scottish Human Rights Commission launched the first annual State of the Nation report on 10 December 2024 (International Human Rights Day). This report to the Scottish Parliament, the first of its kind, highlights the extent and scope of risks to human rights protected in Scotland by the Human Rights Act 1998. The Commission urges the Scottish Parliament, Scottish Government and wider public sector to acknowledge and act to prevent these threats to human rights and to improve access to justice for rights at risk across Scotland. The Commission has set out our recommendations to the Scottish Parliament, and we look forward to working collaboratively to promote the human rights of everyone in Scotland. The full report can be accessed at [www.scottishhumanrights.com](http://www.scottishhumanrights.com). Our next State of the Nation report will be published on Human Rights Day 10th December 2025.

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## 1. Summary

This briefing provides a high-level summary of the Commission's human rights monitoring work over the past year, including the key findings of our first ever State of the Nation report, which looks at threats to civil and political rights in the past parliamentary year, September 2023 to September 2024.

Drawing on examples from real human rights issues brought to the Commission in this period through our 'Spotlight' approach and our international human rights monitoring, we offer insight into how human rights at risk affect people's daily lives.

Independent monitoring and research is a critical role of the Commission and can support the Scottish Parliament to act to strengthen the existing human rights framework. The Commission is concerned that the scale of civil and political rights issues being experienced in Scotland suggests that there are serious barriers to justice. These rights are already protected in law by the Human Rights Act 1998, yet this is not enough to prevent the potential violations we identify.

## 2. Introduction - The State of Human Rights in Scotland

Over the course of 2023 and 2024, the Scottish Human Rights Commission (the Commission) has undertaken a new programme of domestic human rights monitoring. Our Spotlight projects take a deep dive look into human rights issues in Scotland that are of particular concern to the Commission and examine the gap between our human rights obligations and people's lives. Over the same timeframe, the Commission has also delivered treaty reports and recommendations to the United Nations (UN) Human Rights Committee, the Committee on the Elimination of Racial Discrimination, the UN Committee on the Rights of Persons with Disabilities, and the Council of Europe.

Through this work, we identify human rights concerns in Scotland today. The Commission's first annual State of the Nation report documents the human rights challenges experienced by people in Scotland. For the first time, we set out a single assessment to the Scottish Parliament of the state of civil and political rights from September 2023 to September 2024, following the established timeframe of the Programme of Government cycle.

Concerns highlighted include barriers in accessing justice, including chronic challenges in the legal aid system, failure to implement recommendations to protect the right to life and protection from inhumane treatment and punishment in places of detention, and emerging evidence that Scotland is not meeting human rights standards concerning deinstitutionalisation of people with learning disabilities and/or autistic people.

The human rights issues outlined are in breach of Scotland's international human rights obligations, are avoidable, and must be remedied. This short briefing outlines rights holders' direct experiences, findings from our monitoring work, and rights at risk.

## 3. Monitoring Human Rights - why we're launching this report

The Commission's first annual State of the Nation report aims to support the Scottish Parliament and other public bodies to understand and meet their obligations under human rights law. This report is the first step in a four-year assessment of human rights in Scotland, aligning with the Commission's [Strategic Plan 2024-28](#). For year one, the Commission looked at civil and political rights.

The report looks at 14 rights from international law, most of which are protected in Scotland by the Human Rights Act 1998. Some of the findings include

- A long-term failure to progress commitments and recommendations to protect people in places of detention and to uphold the right to life when they're in state custody.
- A lack of momentum behind efforts to end human trafficking, with limited evidence the criminal laws available are being used at a rate the number of victims that data is available for, would suggest is proportionate.
- Difficulties in carrying out the complex balancing exercises necessary to protect rights where there are competing interests. Sometimes the Scottish Government is trying to address concerns such as hate crime, housing and homelessness or privacy, among others, but some groups' needs are not being sufficiently considered across public policies.

Human rights monitoring is an essential tool for the consistent protection of and greater implementation of human rights and is a core function of the Commission. Independent monitoring can:

- Highlight where things are going wrong early so that governments and parliaments can step in to address or prevent violations of rights
- Hold governments and parliaments accountable for their actions or failures to act by applying a consistent framework over time and regularly reminding them of their legal obligations
- Promote transparency, collaboration and the rule of law, including through making independent conclusions and recommendations

#### 4. 'Rights at Risk'

The State of the Nation Report is a snapshot of threats to individual rights. It is clear that there are barriers to people getting access to justice and to remedies when their rights are at risk. Courts and tribunals are expensive, legal aid is in crisis and complaints handling a complex web. As it stands, the Commission has no power to handle individual cases and is prevented from offering advice to people whose rights are under threat.

Human rights defenders share their stories with us through our research, monitoring and participation work, including our Spotlight programme. Their stories give us some insight into what rights at risk look and feel like in daily life.

The following examples are all fictional accounts drawn from what we know to be lived experience but are not a direct account of experiences of specific individuals. We offer them to promote understanding of what human rights denials look like in Scotland today:

Jackie's husband Marc took his own life in prison. Marc had a long history of poor mental health that was well-known by prison staff. At the time of his death, the prison had seen a significant increase in the prison population and Marc was sharing his small cell with another prisoner.

A Fatal Accident Inquiry is required to be carried out because Marc was in prison custody when he died, but Jackie has been told this will take years. Her family will have to find money to pay for their own legal representation, because Jackie's earnings from her part-time work take her just over the threshold for legal aid.

Jackie has since met the family of another man who had also taken his own life in the same prison just a few years before. She learned that a Fatal Accident Inquiry was carried out at that time, which had made a number of recommendations aimed at improving mental health provision and the prison's approach to suicide prevention. In spite of this, the same set of circumstances have repeated and led to another death, suggesting that issues raised were not acted upon; issues which may have led to a different experience for her husband.

Robert is 35, loves music and volunteers with his local community group, where he has many friends. He is autistic and receives social care support from the council to help him live independently within his family home.

After Robert's elderly mother dies, his father struggles to cope. Robert is also struggling with the loss of his mother and communicates this through his behaviour. His carers stop coming to the house because he is considered 'too challenging' and when social workers visit, they agree with Robert's father that Robert should be admitted to hospital as a short-term measure until they can find him the care he needs.

However, Robert ends up staying in hospital for six months before his father dies. Robert has no family left to advocate for him and no home to return to. Social care and social workers continue to try to pull together the care package he needs, but after eight years Robert is still in hospital.

Mary and her daughter Chelsea live in a village in Sutherland. Chelsea moved away to go to university but has moved back in with Mary while she tries to find work locally, so that she can stay near her family where she grew up.

Chelsea has endometriosis, which often leaves her in significant pain. She would like to find a job that could allow her to work from home remotely, using her qualification. However, the broadband speed in the area has not been upgraded in many years, meaning their connection is often too slow to join virtual meetings.

The health board has struggled to recruit a new GP for the community since the previous GP retired. Mary is worried that the practice will close and has not been able to get an appointment for an asthma check-up. It is over one hour's drive to the next nearest GP on bad roads. Last winter, Chelsea had to travel to Inverness for an appointment, nearly 200 miles away, as there was no gynaecological consultant available nearer. She was discharged late in the evening, still in significant pain. Mary was unable to afford a hotel room for that night in Inverness as this was not covered by the health board. As a result, Mary had to drive them both home in the dark, along difficult roads with poor visibility in the bad weather.

## 5. A 'Spotlight' on concerns

The Commission is undertaking a programme of 'Spotlight projects' which focus on the human rights law and practice implications of the issues people are facing in their daily lives.

### 5.1. Absolute Rights in Places of Detention

“The process in jail is, if you are struggling with your mental health, you have to ask for help yourself. Conor did that - he realised he was struggling. He asked for help. How could you possibly treat anybody like that? They did not respect his right to life. No mother should have to go and choose a coffin for their own child. Devastating isn't a big enough word.” Gail Donaghy, Mother of Conor McHugh, BBC News 2024<sup>1</sup>.

In 2024, we published a review of recommendations made by international human rights bodies at the United Nations and the European Committee on the Prevention of Torture over ten years. The review focused on two specific places of detention: prisons and the forensic mental health estate. The review also focused on recommendations concerning two specific human rights: the right to life and the prohibition of torture and inhuman or degrading treatment or punishment.

This review uncovered 29 specific recommendations from the United Nations and the European Committee on the Prevention of Torture made to Scotland over 10 years. In those 10 years, 24 of those recommendations had not been implemented. The failure to act is significant, given that recommendations included action on reducing deaths in state custody, reducing the number of deaths by suicide and improving prison conditions.

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<sup>1</sup> [Lives at risk over inaction on Scottish prisons says report - BBC News](#)

## 5.2. Moving Away from Institutions Towards Independent Living

"Institutionalisation is when you go into a hospital environment or a caring environment, and basically you don't get out again; time goes on, and there is no end date in sight, and it's very sad because it's not a way to live."

SHRC Spotlight Project Participant, 2024.

In 2024, we undertook research to understand what had been done to end the practice of institutionalisation of people with learning disabilities and/or autistic people in Scotland. Our findings will be published in January 2025 and will provide an assessment of progress against Article 19 of the United Nations Convention on the Rights of Persons with Disabilities.

## 5.3. Economic, Social and Cultural Rights in the Highlands and Islands

"There isn't a rural housing crisis. There's a whole series of different crises. And where you are, you may have several of the crises all operating together, or you may just have one."

SHRC Research Participant, 2024

In April 2023, the Commission committed to examine the human rights challenges facing communities in Scotland's Highlands and Islands more closely. We conducted community visits to speak directly to residents and hear about their experiences. We also analysed complaint trends from MSPs and the Scottish Public Services Ombudsman. Our work has identified concerns in several key areas of economic, social and cultural rights, including social housing shortages in rural areas, a lack of locally available health services (including sexual and reproductive health services), and a lack of social care in some rural areas.

## 5.4. Mapping the Access to Justice Landscape

"Too many people are saying they are putting in a complaint and not getting a response."

Research Participant, 2024

Access to justice is the backbone of human rights protection for everyone. Access to legal aid and advocacy is vital for people facing issues which may affect their human rights, including in the criminal and civil courts.

In 2023, we published a discussion paper<sup>2</sup> that focused on economic, social, cultural, and environmental rights and highlighted different barriers around access to justice for violating these rights. This paper identified that overcoming these barriers puts most people off before their journey to access justice starts.

In 2024, we produced a [map of human rights legal advice services](#) and have highlighted the difficulties faced by the most deprived communities where 122 of 139 such communities do not have any firms which take civil legal aid cases, and in some areas there are fewer than 30 firms providing civil legal aid for populations of 100,000.

## 6. Addressing the Barriers to Civil and Political Rights

From the initial findings of our 2023-24 domestic human rights monitoring, it is evident that human rights failings occur across Scotland; specifically in places of detention and across our rural communities. These issues are exacerbated by extensive barriers to justice when people face rights violations.

The systems that both court and non-court complaints have to navigate is highly complex and under-resourced. We highlight issues with legal aid, judicial review processes and the lack of power of the Commission to raise our own cases or to support individuals with their own legal issues. People in Scotland are required to raise their own human rights case, find the funds and find suitable legal representation. Law centres are having to fundraise to meet the costs of litigation.

Unlike in the rest of the UK, the Commission as the National Human Rights Institution cannot take cases in its own name in the public interest. As a result of the UNCRC (Incorporation) (Scotland) Act 2024, this is now possible for a limited set of

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<sup>2</sup> [Access to Justice for Everyone | Scottish Human Rights Commission](#)

circumstances which impact on the rights of children and young people, and their family carers, including kinship carers.

At present, everyone else must navigate a system that is fundamentally broken on their own, at great human and financial expense. That is wrong.

At this time where work on a Human Rights Bill for Scotland has stalled, the Scottish Parliament could take further practical action to better promote the civil and political rights of the people of Scotland:

- Prioritise consideration of legal aid reform opportunities via the Regulation of Legal Services Bill and focus time to explore other efforts to improve access to justice in Scotland
- During the forthcoming Parliamentary Inquiry into the current commissioner landscape, prioritise an examination of existing mandates of office holders to ensure they are sufficient to promote access to justice for individuals, and systemic learning for all
- Dedicate parliamentary time to consider the Commission's State of the Nation report and include this in the annual programming of parliamentary business to mark Human Rights Day
- Devote an evidence session at the Criminal Justice Committee to consider the findings of the Commission's Spotlight report on the status of human rights recommendations in places of detention and future emerging work from the Commission on such matters, including forthcoming work on deaths in state custody.
- Support the establishment of an independently maintained human rights tracker tool that monitors international recommendations on Scotland's human rights record and actions taken by the Scottish Government as a result.

For more information, please email us at [hello@scottishhumanrights.com](mailto:hello@scottishhumanrights.com) or visit [www.scottishhumanrights.com](http://www.scottishhumanrights.com)