

Consultation response: Scottish Government consultation on improving protections in the justice system for women and girls

August 2026

Table of Contents

About the SHRC	3
Executive Summary	3
About this submission	6
The human rights legal framework	6
Human rights legal principles	6
European Convention on Human Rights	7
UNCRC	7
CEDAW	8
Istanbul Convention	9
Recommendations from international human rights bodies specific to the Scottish Government's proposals	11
Non-fatal strangulation	11
Spiking	12
Statutory aggravation – offences committed against pregnant women	12
Prosecutorial powers to impose non-harassment orders	12
Online and technology-facilitated harm	13
Other GREVIO recommendations	15
Merits of creating specific laws and offences	15
Freedom of expression and procedural considerations for implementation	17
Conclusion	18

About the SHRC

The Scottish Human Rights Commission ("SHRC") is a public body created by the Scottish Commission for Human Rights Act 2006. We are an independent, expert body that works with and for the people of Scotland; we monitor, listen, speak up for all our rights and respond when things go wrong.

The SHRC is also part of the international human rights system. We are accredited by the United Nations as its trusted organisation to provide impartial evidence on the enjoyment of human rights in Scotland.

The SHRC is independent of government. We are accountable to the people of Scotland via the Scottish Parliament.

Executive Summary

Violence against women and girls¹ is recognised under international law as a pervasive violation of fundamental human rights and freedoms. As recognised in the Scottish Government's [Equally Safe National Strategy on Violence Against Women and Girls](#), it is a cause and consequence of inequality.² The international human rights legal framework requires States to prevent and combat violence against women.

The SHRC welcomes the opportunity to comment on the human rights considerations relevant to the Scottish Government's [consultation on improving protections in the justice system for women and girls](#). We recognise that this consultation is being held at an early stage of policy development, without a draft bill.

The SHRC recognises and welcomes the Scottish Government's efforts to reduce levels of violence against women and girls.³ Human rights law internationally, regionally and domestically is clear that there is an obligation on all parts of the State put in place effective measures to prevent violence, protect victims, and punish perpetrators of these harms.

The international human rights framework does not, however, prescribe a single list of measures or actions required to address violence against women and girls. While the Istanbul Convention does set out some specific harms that States should criminalise, these are not exhaustive. The SHRC does not therefore take a view on the potential positive or negative consequences of criminal laws considered in this consultation. At this stage, our response sets out the human rights obligations on the Scottish Government to prevent and address violence against women and girls. We have also analysed the interaction between these proposals and the international

human rights framework, highlighting the relevant considerations that the Scottish Government must apply.

The SHRC recommends:

1) Experts in gender-based violence against women and girls must play an active role in developing an approach that is fit for purpose in the Scottish context and that effectively delivers against State obligations, in line with a Human Rights Based Approach. These experts should include service providers, as well as women who have experienced these harms.

2) Any law or policy developed further to this consultation should consider the findings of the Istanbul Convention's monitoring body (GREVIO), in line with the Scottish Government's commitment to bring forward an action plan to implement its 2025 recommendations⁴.

3) To ensure that State action to prevent violence against women is effective, the Scottish Government should give full and careful consideration to their obligation under Article 11 of the Istanbul Convention to conduct research and gather evidence to support effective responses to all forms of violence against women.

4) The Scottish Government and other duty bearers should also specifically:

- Engage with experts in the field to determine whether current practice in Scotland appropriately reflects the seriousness of fatal or non-fatal strangulation cases, as raised by GREVIO in their findings
- If minded to introduce a power to impose non-harassment orders as an alternative to prosecution, the Crown Office and Procurator Fiscal Service (COPFS) should engage with experts in gender-based violence to ensure their use is underpinned by gender-sensitive practice (as required in the Istanbul Convention).
- Carry out data collection and analysis of the use and efficacy of the various orders that can be applied in cases of violence against women to understand barriers to access
- Consider GREVIO's General Recommendation on applying its treaty obligations in digital spaces, as well as targeted recommendations to the UK relevant to violence against women perpetrated in digital spaces.
- Provide an update on their commitment to developing an action plan to respond to the full GREVIO Baseline Assessment and consider whether future legislation following this consultation may provide an opportunity for other measures to be considered.

- Carefully assess the impact of all measures on the rights protected in European Convention on Human Rights (ECHR), including freedom of expression to ensure that any restriction is the least restrictive means required to achieve its aims.

About this submission

This consultation by the Scottish Government is intended to inform future criminal law reforms and other measures to respond to certain forms of harms.

This consultation response is in line with two of the SHRC's 2024-8 strategic priority areas of focus: access to justice, and the right to remedy for specially protected groups. Our comments build on the SHRC's monitoring and reporting work to support the baseline review of the UK under the Istanbul Convention, which concluded in 2025.⁵ We also set out the treatment of violence against women as a form of sex discrimination covered by the UN Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW). This analysis comes ahead of the upcoming cycle of review by the UN CEDAW Committee, anticipated in 2027. The Scottish Government's commitments to incorporation of CEDAW via the Human Rights Bill are also relevant to policy and legislative considerations.

We do not provide answers to all the consultation questions and suggest that our advice is considered primarily as part of Question 17 in the consultation paper ('Do you have any views on potential impacts of the proposals in this consultation on human rights?').

The human rights legal framework

Human rights legal principles

Since the 1990s, international and regional human rights bodies - including the CEDAW Committee⁶ and UN General Assembly⁷ - have consistently endorsed a definition gender-based violence against women as "violence that is directed against a woman because she is a woman or that affects women disproportionately". In this submission, all references made by the SHRC to violence against women reflect this definition.

Violence against women can engage many different human rights obligations and principles that cut across the corpus of international and domestic law. In particular:

- The right to equality and non-discrimination.⁸
- Being a victim of violence covered by criminal or civil law will engage the right to fair trial or to a remedy.⁹
- A real or perceived threat of violence often leads women and girls to change their lifestyles or patterns, undermining their enjoyment of other

rights such as to work, education or healthcare or to assemble or express their views.¹⁰ This is sometimes known as 'safety work'.¹¹

- Gender-based violence undermines core and cross-cutting human rights principles such as human dignity and equality.¹² The CEDAW Committee and other international law experts consider that the prohibition of gender-based violence against women has evolved into a universal principle of customary international law, existing beyond specific treaty provisions.¹³

As a general rule, while there is a broad basis for identifying the State's obligations in relation to violence against women, international human rights law does not prescribe a universal approach to delivering these general obligations to prevent and disrupt violence against women.

European Convention on Human Rights

The Human Rights Act 1998, which directly incorporates the text of the European Convention on Human Rights (ECHR) into domestic law in the UK, does not include a specific article on violence against women. However, the European Court of Human Rights (ECtHR) in *Opuz v Turkey*¹⁴ underlined the importance of considering how gendered dynamics create risk factors for violence against women. The ECtHR has also set out that human rights law in relation to violence against women and girls includes the measures that States put in place to prevent, prosecute and punish acts of harm perpetrated by private people towards other people.¹⁵

The *Opuz* judgment and subsequent related jurisprudence of the ECtHR demonstrates that violence against women can also amount to a violation of other human rights. For example, gender-based violence itself may cause harm that is incompatible with the right to be free from torture or inhuman or degrading treatment or punishment, or even the right to life. If public bodies knew or ought to have known about the risks and did not take appropriate steps to prevent it, this may be a breach of their duties under human rights law.¹⁶ This means that duty-bearers must have awareness of prevalence of risk-factors associated with violence against women, including gendered patterns of behaviour and resource.¹⁷

UNCRC

The rights of girls are also protected under the UN Convention on the Rights of the Child (UNCRC). The UNCRC is incorporated into domestic law in Scotland through the UN Convention on the Rights of the Child (Incorporation) (Scotland) Act 2024. The UNCRC contains provisions relevant to violence against children, including:

- A child's right to life, survival and development¹⁸

- The child's right not to be subjected to torture or other cruel, inhuman or degrading treatment or punishment¹⁹
- The obligation on the state to ensure the child has such protection as is necessary for their wellbeing²⁰
- The obligation on the state to ensure that the child is protected against all forms of discrimination²¹
- The UNCRC Committee has explicitly addressed the "gendered dimensions of violence against children" as part of a General Recommendation published in 2011.²² This articulates that "States parties should ensure that policies and measures take into account the different risks facing girls and boys in respect of various forms of violence in various settings".

CEDAW

The rights of women as a group are specifically protected under two human rights treaties: UN Convention on the Elimination of Discrimination Against Women (CEDAW) and the Council of Europe Convention on preventing and combating violence against women and domestic violence, known as "The Istanbul Convention". The UK is a party to both treaties, having ratified CEDAW in 1986 and Istanbul in 2021. The Scottish Government is required to comply with the international obligations under these treaties by the Scotland Act 1998. However, neither has yet been incorporated into Scots Law. The Scottish Government has however committed to including protections for CEDAW in its proposed Human Rights Bill.

CEDAW sets out relevant obligations and considerations in the State's response to violence against women. CEDAW treats violence against women as a form of discrimination against women which cuts across all articles of the Convention and all aspects of women's lives. General Comments 19 and 35²³ issued by CEDAW Committee provide more detail on the nature of States' obligations, including:

- Responsibility for acts or omissions of State actors
- Responsibility for acts or omissions of non-State actors (an obligation of due diligence). This means that States parties will be held responsible should they fail to take all appropriate measures to prevent, as well as to investigate, prosecute, punish and provide reparations for, acts or omissions by non-State actors that result in gender-based violence against women.

General Comment 19 situates violence against women as a form of sex-based discrimination under Article 1 CEDAW, and defines it in a holistic way that encompasses its diverse forms. It "includes acts that inflict physical, mental or sexual harm or suffering, threats of such acts, coercion and other deprivations of liberty."²⁴ As such, gender-based violence may breach specific Articles of the convention "regardless of whether those provisions expressly mention violence."²⁵ States must prevent, investigate and punish acts of violence against women and provide for reparations.

The CEDAW Committee has made many general and country-specific recommendations to States to legislate, prevent, protect, prosecute and punish, make reparations and to enable coordination, monitoring and data collection in the context of violence against women. Similar issues are often part of the Concluding Observations the Committee makes during the review of States party to the convention, and individual complaints. These include the 'high' or 'continuing' or 'persistence' of rates of different forms of violence against women.

General Comment 19 includes more than 20 recommendations to States, including (t)(i) "Effective legal measures, including penal sanctions, civil remedies and compensatory provisions to protect women against all kinds of violence, including inter alia violence and abuse in the family, sexual assault and sexual harassment in the workplace."²⁶ General Comment 19 is expanded upon by General Comment 35, including a number of legislative measures that States should consider, such as the repeal of certain types of listed laws, and criminalisation of sexual violence based on the lack of freely given consent. What neither General Comment includes is a defined list of offences that States must have in place to achieve their objectives.

Specific to the UK and Scotland, in their most recent Concluding Observations (2019), the CEDAW Committee made just one recommendation on the subject. They called for improvements to access to justice and adequate legal support for victim survivors and to adopt legislative and comprehensive policy measures to protect women from all forms of gender-based violence throughout the State party.²⁷

Istanbul Convention

While CEDAW gives a strong, cross cutting and whole society obligation to tackle violence against women, the most comprehensive and technical set of obligations in relation to violence against women are set down in the Istanbul Convention. The Istanbul Convention includes over 50 substantive articles which are divided into four pillars:²⁸

- Obligations to prevent violence against women occurring

- Obligations to protect women and girls from such violence
- Obligations to prosecute and punish perpetrators
- Obligations to put in integrated policies to support coordinated action across State institutions and agencies.

These pillars and the relevant obligations extend to all forms of violence against women and domestic abuse. In addition, the convention lists some specific harms that must be criminalised:

- Article 33 – Psychological violence
- Article 34 – Stalking
- Article 35 – Physical violence
- Article 36 – Sexual violence, including rape
- Article 37 – Forced marriage
- Article 38 – Female genital mutilation
- Article 39 – Forced abortion and forced sterilisation
- Article 40 – Sexual harassment

For each of these harms, the Istanbul Convention requires the State to take the necessary legislative or other measures to establish it as an offence.²⁹ However it does not further specify how these offences should be drafted, what manifestations of harms may fall within the scope of these offences, or what penalties are to be attached.

The Istanbul Convention further obliges states to ensure that all "offences established in accordance with this Convention are punishable by effective, proportionate and dissuasive sanctions, taking into account their seriousness. These sanctions shall include, where appropriate, sentences involving the deprivation of liberty which can give rise to extradition."³⁰

The Istanbul Convention represents a set of minimum level requirements. The Group of Experts on Violence Against Women (GREVIO), the body tasked with monitoring compliance with the Istanbul Convention, recognise that States who have ratified it

take different and often context-specific approaches to criminal law.¹ In the baseline assessment of the UK, published in June 2025, GREVIO welcomed many areas where the UK and Scotland specifically had exceeded the minimum obligations of the Charter, for example, the standalone criminal offence of physical, sexual or psychological harm inflicted against a current or former partner set out in section 1 of the Domestic Abuse (Scotland) Act 2018.³¹

The baseline assessment makes several recommendations relevant to specific proposals which are considered in the next section.

The Scottish Government should carefully consider whether its proposals meet all the general and specific obligations from across the human rights framework.

Recommendations from international human rights bodies specific to the Scottish Government's proposals

The present consultation indicates that the Scottish Government is actively considering what is needed and what will work to prevent emerging or developing manifestations of violence against women. This is in line with both the jurisprudence of the ECtHR and Scotland's obligations under the Istanbul Convention and CEDAW.

GREVIO has made several recommendations which may assist the Scottish Government in developing concrete and effective proposals to respond to the harms considered in this consultation.

Non-fatal strangulation

While several existing criminal laws may apply to non-fatal strangulation,³² GREVIO's assessment of the UK noted with concern that so-called "rough sex" defences have not been outlawed in Scotland. A specific consent defence in cases of assault does not exist in Scots criminal law.³³ However, GREVIO's broader concern is that so-called 'rough sex' fatal-strangulation cases may see charges

¹ As GREVIO writes in the opening to the [UK's Baseline assessment report](#): "The first (baseline) evaluation procedure is made up of several steps, each of which allows GREVIO to obtain critical information upon which to base its report. It is carried out as a process of confidential dialogue with the aim of offering country-specific proposals and suggestions for improvement developed within the national context of the party under review."

reduced from murder to culpable homicide because the accused claims the victim 'consented'.³⁴

GREVIO stresses the need for the thorough application of a gendered perspective in considering this issue.³⁵ Beyond fatal or non-fatal strangulation, GREVIO also recommended that "relevant authorities in [...] Scotland prohibit any defence of consent to acts of physical violence against women, in particular in the context of sexual violence."

We recommend that the Scottish Government carry out expert engagement to determine to what extent GREVIO's concern that practice does not reflect the seriousness of fatal or non-fatal strangulation cases represents the reality in Scotland.

Spiking

GREVIO has made no specific observations or recommendations on this issue.

Statutory aggravation – offences committed against pregnant women

GREVIO has made no specific observations or recommendations on this issue. However, they welcomed the "high practical relevance" of the aggravation introduced in the Domestic Abuse (Scotland) Act where the offence was committed in the presence of a child.³⁶

Prosecutorial powers to impose non-harassment orders

GREVIO also noted that practical use of existing orders available in Scotland remains low. GREVIO strongly encouraged that:

- The full range of protection orders are made use of in practice and in relation to all forms of violence against women covered by the Istanbul Convention;

- Applications for the different restraining and protection orders can be made both *ex parte* and *ex officio*² for all forms of violence against women, where this is not yet the case.

When the SHRC spoke to focus groups of victim-survivors of gender-based violence as part of our research for the Istanbul Assessment in 2024, it was clear that they wanted swift, proactive and effective interventions by agencies that keep them safe. They had negative reflections on engaging with the criminal justice system, including courts.³⁷ This suggests that civil orders as an alternative to prosecution may alleviate the concerns of victims who do not wish to go to court. However, the Scottish Government must also balance any alternative to prosecution with the obligations to ensure "effective, proportionate and dissuasive sanctions" (Article 45.) The introduction of alternatives to prosecution must not have the effect of treating gender-based violence as less serious than other forms of crime. The Scottish Government should also consider what additional steps can be taken to improve the experience of victims in the criminal justice system where prosecution does take place.

If the Scottish Government is minded to introduce a power to impose non-harassment orders as an alternative to prosecution, we encourage the Crown Officer and Procurator Fiscal Service (COPFS) to engage with experts in gender-based violence to ensure their use is underpinned by gender-sensitive practice (as required in the Istanbul Convention).

We further encourage duty bearers to carry out data collection and analysis of the use and efficacy of the various orders that can be applied in cases of violence against women to understand barriers to access

Online and technology-facilitated harm

In addition to monitoring individual State compliance with the Istanbul Convention, GREVIO may also issue General Recommendations on thematic issues. So far, GREVIO has published one General Recommendation, concerning the digital

² Article 55 of the Istanbul Convention refers to "Ex parte and Ex Officio proceedings". These legal terms mean "from one party" and "from the office" but in the context of Article 55 are used to mean steps States take without a report or complaint (Art.55(1)) and steps States take to ensure that support and protection can come from non-judicial sources (Art.55(2)).

dimension of violence against women.³⁸ This General Recommendation recognises that the Istanbul Convention was drafted before many of these technologies existed or became widely used. However, they are now being used to amplify and facilitate continuity of the different forms of such violence that affects and exacerbates women and girls' experiences of gender-based violence against women.³⁹

Having regard to this General Recommendation, the Scottish Government should consider how its treaty obligations apply in digital spaces. As per the General Recommendation, this includes:

- The State needs to take the necessary legislative and other measures to exercise due diligence to prevent, investigate, punish and provide reparation for violence against women which is perpetrated by individuals. This covers all the forms of violence against women covered by the Convention⁴⁰
- The text of the Istanbul Convention defines sexual harassment as “any form of unwanted verbal, non-verbal or physical conduct of a sexual nature with the purpose or effect of violating the dignity of a person, in particular when creating an intimidating, hostile, degrading, humiliating or offensive environment”⁴¹ GREVIO considers that non-consensual taking, producing or procuring of intimate images or videos falls within that definition.⁴²
- The Istanbul Convention also defines stalking as “intentional conduct of repeatedly engaging in threatening conduct directed at another person, causing her or him to fear for her or his safety”.⁴³
- The Istanbul Convention also describes psychological violence as “the intentional conduct of seriously impairing a person’s psychological integrity through coercion or threats”⁴⁴

GREVIO recommends that States "Consider reviewing any relevant legislation in place and adopt new legislation where needed to prevent, provide protection from and prosecute the digital dimension of violence against women against the standards of the Istanbul Convention and other relevant standards, including the Budapest Convention [on cybercrime]."⁴⁵

Further recommendations from GREVIO would support non-legislative interventions in addition to responding to identified gaps in existing laws in this area. These include:

- the inclusion of digital literacy and online safety in formal curricula;
- incorporating digital manifestations of violence against women in any existing intervention programmes for perpetrators of violence;

- gender-sensitive capacity building for all agencies on the digital dimension of violence against women as well as on the gathering and securing of electronic evidence.

The Scottish Government should consider GREVIO's General Recommendation on applying its treaty obligations apply in digital spaces as well as targeted recommendations to the UK relevant to violence against women perpetrated in digital spaces.

Other GREVIO recommendations

The SHRC welcomes the Scottish Government's consideration of the specific issues in this consultation as part of the national approach to violence against women. We also highlight that GREVIO made recommendations covering all aspects of the Istanbul Convention. The Scottish Government previously committed to developing an action plan to respond to the full assessment, and we would welcome an update on progress in this regard.

Future legislation and wider policy development may provide an opportunity for other measures to be considered, and we recommend consultation on these aspects of GREVIO's findings and recommendations. The Scottish Government's recent comments on revisiting proposals on the criminalisation of misogynistic harassment are also relevant here.⁴⁶ GREVIO indicated a possible gap in the law in respect of sexual harassment but noted with interest ongoing consultation on the Misogyny and Criminal Justice Bill.⁴⁷

Merits of creating specific laws and offences

Human rights treaties do not generally mandate how the State prevents violence against women, but they do require that measures should be effective. To understand whether this is the case, States must collect and monitor evidence and data. The Istanbul Convention specifically requires the collection of "disaggregated relevant data at regular intervals on cases of all forms of violence covered by the scope of this Convention" (Article 11).

Istanbul also requires that States build a gender perspective into the implementation and evaluation of all policies, measures, and programs designed to prevent and

combat violence against women and domestic violence (Article 6).³ This means consideration of the specific reasons why women and girls may suffer harassment, violence or discrimination, and taking measures to address this.⁴ Understanding the nature and scale of the problem is important for the State to ensure effective gender-sensitive approaches, as specified by the ECtHR in *Opuz*.⁴⁸

A gender-sensitive approach does not necessarily mean sex-specific offences, though neither does it preclude them. It means law and policy which has been shaped and applied with an understanding of the lived experiences of women and girls and the need to prevent, at an individual and a systemic level, violence against women because they are women.

As the consultation paper notes, the harms being considered could be approached to various degrees through existing criminal laws. However, as it stands none is covered by a standalone, named offence. The campaigns cited in the consultation document as preceding the consultation demonstrate concerns that without named or standalone offences the harms are not necessarily being reported, investigated, prosecuted or recorded in some way, and that this is contributing to the scale of harm.

Specific offences could be one way to help ensure the gender-sensitive nature of the laws and their implementation. This means consideration of the specific reasons why women and girls may suffer harassment, violence or discrimination, and taking measures to address this. A specific offence that has been drafted to respond to the realities of harms may be more effectively understood and applied by police and criminal justice agencies than trying to apply a more general offence. That risk could also be potentially mitigated by gender-sensitive training and procedures. The

³ "Article 6: Parties shall undertake to include a gender perspective in the implementation and evaluation of the impact of the provisions of this Convention and to promote and effectively implement policies of equality between women and men and the empowerment of women."

⁴ The approach GREVIO adopts to analysing Article 6 is explained in [CETS 210 - Explanatory Report to the Council of Europe Convention on preventing and combating violence against women and domestic violence](#), which also refers to the definitions in Article 3 of the Convention and the equality and non-discrimination provisions in Article 4.

ECtHR also noted in the Opuz judgement that other forms of data and evidence should be taken in consideration, such as evidence from civil society.

It is important that potential benefits of specific offences are carefully weighed against the loss of flexibility or risks of unintended consequences. Specificity could narrow the scope of a more general offence or minimise the perception of such harms as forms of sexual violence or domestic abuse.

It is also important that the Scottish Government listens to the perspectives of rights-holders, in particular victims of violence against women, when considering expansion of criminal law. In our engagement with women to inform GREVIO's baseline assessment of the UK, we heard negative victim-survivor perspectives on police and criminal justice. The women in our focus groups were almost universally wary or critical of engaging with police and the courts. Many said their experiences of these would put them off ever reporting again.⁴⁹ GREVIO's findings confirm "shortcomings in the training of law-enforcement officials, public prosecutors and judges, and low charging rates in cases of violence against women" as well as a need to renew confidence and build trust in law-enforcement agents.⁵⁰

Freedom of expression and procedural considerations for implementation

Measures to prevent technology-enabled harms, particularly restriction of online behaviours, engage potential tensions between protecting potential victims and freedom of expression, as protected by Article 10 of ECHR. Freedom of expression extends to ideas that may shock, disturb or offend the deeply held beliefs of others. For children, freedom of expression is also protected by Article 13 of the UNCRC.

Freedom of expression is not absolute and may be limited in certain circumstances in line with Article 10(2) ECHR. All restrictions on expression must be:

- In accordance with the law
- Pursuant to a legitimate aim
- Necessary to achieve the legitimate aim being pursued (proportionate)

The SHRC considers that the prevention of violence against women would likely be considered a legitimate aim under Article 10. This extends to measures targeting harms perpetrated via the internet, such as the creation and sharing of AI indecent images. However, individual circumstances must be considered to ensure the measures taken by the State are proportionate.

In addition, if any new provisions of criminal law are to be introduced to counter the harms considered in this consultation, it is essential that any interference with the rights of people accused of a crime are carefully considered. This would include:

- Article 5 ECHR: Right to liberty and security
- Article 6 ECHR: Right to a fair trial
- Article 7 ECHR: No punishment without law

The Scottish Government must carefully assess the impact of measures on ECHR rights including freedom of expression and the right to fair trial. They should be assured that any interference with free expression meets the above criteria, and is the least restrictive means to achieve its objective.

Conclusion

Human rights law provides an interwoven framework for analysing the human rights obligations of States when it comes to violence against women and girls. While this framework leaves open flexibility for States to design their criminal law and broader legal and policy approaches, there is a clear requirement to take effective responses to a wide range of harms that fall within the broad definition of such violence. In order to do this effectively, States must respond to the evidence of harms, assess what works and keep their approaches under review. The SHRC therefore welcomes this consultation as an example of gathering such evidence, but the Scottish Government must also show willingness to respond with proposals and action.

In doing so, we recommend that:

-
- 1) Experts in gender-based violence against women and girls must play an active role in developing an approach that is fit for purpose in the Scottish context and that effectively delivers against State obligations, in line with a Human Rights Based Approach. These experts should include service providers, as well as women who have experienced these harms.
 - 2) Any law or policy developed further to this consultation should consider the findings of the Istanbul Convention's monitoring body (GREVIO), in line with the Scottish Government's commitment to bring forward an action plan to implement its 2025 recommendations⁵¹.
 - 3) To ensure that State action to prevent violence against women is effective, the Scottish Government should give full and careful consideration to their obligation

under Article 11 of the Istanbul Convention to conduct research and gather evidence to support effective responses to all forms of violence against women.

4) The Scottish Government and other duty bearers should also specifically:

- Engage with experts in the field to determine whether current practice in Scotland appropriately reflects the seriousness of fatal or non-fatal strangulation cases, as raised by GREVIO in their findings
- If minded to introduce a power to impose non-harassment orders as an alternative to prosecution, the Crown Office and Procurator Fiscal Service (COPFS) should engage with experts in gender-based violence to ensure their use is underpinned by gender-sensitive practice (as required in the Istanbul Convention).
- Carry out data collection and analysis of the use and efficacy of the various orders that can be applied in cases of violence against women to understand barriers to access
- Consider GREVIO's General Recommendation on applying its treaty obligations apply in digital spaces as well as targeted recommendations to the UK relevant to violence against women perpetrated in digital spaces.
- Provide an update on its commitment to developing an action plan to respond to the full GREVIO Baseline Assessment and consider whether future legislation following this consultation may provide an opportunity for other measures to be considered.
- Carefully assess the impact of all measures on wider ECHR rights, including freedom of expression to ensure that any restriction is the least restrictive means required to achieve its aims.

¹ Reflecting Article 3f of the Istanbul convention, all references to violence against women in this response are to be read as inclusive of girls under the age of 18.

-
- ² [Scottish Government \(2023\) Equally Safe 2023 - preventing and eradicating violence against women and girls: strategy](#)
- ³ Scottish Government (2026) Consultation Paper: [Improving protections in the justice system for women and girls](#)
- ⁴ Scottish Government (2024) [Equally Safe: delivery plan](#)
- ⁵ [Scottish Human Rights Commission \(2023\) Submission to the Council of Europe Group of Experts on Action against Violence against Women and Domestic Violence \(GREVIO\) Parallel Report for the Baseline Report in Monitoring the United Kingdom](#)
- ⁶ [CEDAW General Recommendation No. 19: Violence against Women A/47/38 and CEDAW General recommendation No. 35 \(2017\) on gender-based violence against women, updating general recommendation No. 19 \(1992\)](#)
- ⁷ [Declaration on the Elimination of Violence against Women, General Assembly resolution 48/104](#)
- ⁸ [Opuz v Turkey \(Application no. 33401/02\) paragraph 200](#)
- ⁹ [European Union Agency for Fundamental Rights \(2019\) Victims' rights as standards of criminal justice – Justice for victims of violent crime, Part I](#)
- ¹⁰ Women's Aid England have published a webpage on the impacts of domestic abuse which includes a long list of impacts for women, children and society: The impact of domestic abuse - [Women's Aid \(webpage\)](#)
- ¹¹ [Scottish Government \(2022\) Misogyny - A Human Rights Issue](#)
- ¹² [Committee on the Elimination of Discrimination Against Women General recommendation No. 19: Violence against women](#)
- ¹³ [Committee on the Elimination of Discrimination against Women General recommendation No. 35 on gender-based violence against women, updating general recommendation No. 19](#)
- ¹⁴ [Opuz v Turkey \(Application no. 33401/02\)](#)
- ¹⁵ [Osman v United Kingdom \(87/1997/871/1083\)](#)
- ¹⁶ [Osman v United Kingdom \(87/1997/871/1083\)](#)
- ¹⁷ [Opuz v Turkey \(Application no. 33401/02\) paragraph 198](#)
- ¹⁸ UNCRC Article 6
- ¹⁹ UNCRC Article 37
- ²⁰ UNCRC Article 3
- ²¹ UNCRC Article 2
- ²² Paragraph 72b of the Committee on the Rights of the Child's General Comment No. 13 (2011)
- ²³ [CEDAW General Recommendation No. 19: Violence against Women A/47/38 and CEDAW General recommendation No. 35 \(2017\) on gender-based violence against women, updating general recommendation No. 19 \(1992\)](#)
- ²⁴ [CEDAW General Recommendation No. 19: Violence against women | Refworld](#) para 6

-
- ²⁵ [CEDAW General Recommendation No. 19: Violence against women | Refworld](#)
para 6
- ²⁶ [CEDAW General Recommendation No. 19: Violence against women | Refworld](#)
- ²⁷ [Committee on the Elimination of Discrimination against Women \(2019\) Concluding observations on the eighth periodic report of the United Kingdom of Great Britain and Northern Ireland](#)
- ²⁸ [Council of Europe, GREVIO: The Convention in brief - Istanbul Convention Action against violence against women and domestic violence \(Webpage\)](#)
- ²⁹ See Articles 33 - 40 of the [Istanbul Convention](#)
- ³⁰ [Istanbul Convention](#) Article 45
- ³¹ [Group of Experts on Action against Violence against Women and Domestic Violence \(GREVIO\) \(2025\) \(Baseline\) Evaluation Report on legislative and other measures giving effect to the provisions of the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence \(Istanbul Convention\) United Kingdom](#)
- ³² Scottish Government (2026) Consultation Paper: [Improving protections in the justice system for women and girls](#) Page 8
- ³³ Kirkup v. HMA [2025] HCJAC 9
- ³⁴ [Group of Experts on Action against Violence against Women and Domestic Violence \(GREVIO\) \(2025\) \(Baseline\) Evaluation Report on legislative and other measures giving effect to the provisions of the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence \(Istanbul Convention\) United Kingdom](#) paragraph 308
- ³⁵ [Group of Experts on Action against Violence against Women and Domestic Violence \(GREVIO\) \(2025\) \(Baseline\) Evaluation Report on legislative and other measures giving effect to the provisions of the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence \(Istanbul Convention\) United Kingdom](#) paragraph 308
- ³⁶ [Group of Experts on Action against Violence against Women and Domestic Violence \(GREVIO\) \(2025\) \(Baseline\) Evaluation Report on legislative and other measures giving effect to the provisions of the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence \(Istanbul Convention\) United Kingdom](#)
- ³⁷ [Istanbul Convention Lived Experience Report](#)
- ³⁸ [GREVIO General Recommendation No. 1 on the digital dimension of violence against women \(2021\)](#)
- ³⁹ [GREVIO General Recommendation No. 1 on the digital dimension of violence against women \(2021\)](#)
- ⁴⁰ Istanbul Convention Article 5(2)

⁴¹ Istanbul Convention Article 40

⁴² [GREVIO General Recommendation No. 1 on the digital dimension of violence against women \(2021\)](#)

⁴³ Istanbul Convention Article 34

⁴⁴ Istanbul Convention Article 33

⁴⁵ [The Council of Europe Convention on Cybercrime \(Budapest Convention, ETS No. 185\) and its Protocols](#) (known as the 'Budapest Convention') is a widely ratified international treaty which establishes a framework for States to counter cybercrime and electronic evidence. The UK is a party to this Convention.

⁴⁶ [PressReader.com | Government to resurrect plans criminalising misogyny](#)

⁴⁷ [Group of Experts on Action against Violence against Women and Domestic Violence \(GREVIO\) \(2025\) \(Baseline\) Evaluation Report on legislative and other measures giving effect to the provisions of the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence \(Istanbul Convention\) United Kingdom](#)

⁴⁸ Opuz v Turkey (Application no. 33401/02)

⁴⁹ [SHRC \(2024\) Its Not a Story, Its What Happened](#)

⁵⁰ [Group of Experts on Action against Violence against Women and Domestic Violence \(GREVIO\) \(2025\) \(Baseline\) Evaluation Report on legislative and other measures giving effect to the provisions of the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence \(Istanbul Convention\) United Kingdom](#)

⁵¹ Scottish Government (2024) [Equally Safe: delivery plan](#)