

# Joint Civil Society Report to the United Nations Universal Periodic Review of the United Kingdom (3<sup>rd</sup> Cycle)

This report has been produced by the

British Institute of Human Rights

The following organisations join this report:

- Age Cymru
- Age UK
- AIRE Centre
- Anti-Slavery International
- Arcadea
- Article 12
- Association of Visitors to Immigration Detainees
- Asylum Aid
- BHA for Equality
- Brighton & Hove Impetus
- British Humanist Association
- Child Rights Alliance for England
- Children 1st
- Children are Unbeatable! Alliance
- Children in Scotland
- Citizens Advice Hambleton, Richmondshire and Selby & District
- Detention Action
- End Violence Against Women Coalition
- Freedom From Torture
- Friends, Families and Travellers
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- Housing Justice
- Human Rights & Equalities Charnwood
- Human Rights Consortium
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- Just Fair
- JUST West Yorkshire
- Latin American Women's Rights Service
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- Mencap
- Migrant Rights Network
- Mind
- NAT (National AIDS Trust)
- NAWO
- NDTi (The National Development Team for Inclusion)
- Northamptonshire Rights and Equality Council
- Nottingham Mencap
- NSUN Network for Mental Health
- NUS (National Union of Students)
- OPAAL (UK)
- Preston New Road Action Group
- Race Equality Foundation
- Race on the Agenda: ROTA
- RECOVERY Assistance Dogs
- Refugee and Migrant Forum of Essex and London
- Refugee Rights Data Project
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- RightsWatch UK
- Ross and Cromarty CAB
- Runnymede Trust
- Safer Wales
- Scottish Council for Voluntary Organisations
- Southall Black Sisters
- Stonewall
- Stopwatch
- Tameside Human RightsWatch
- Terrence Higgins Trust
- The IARS International Institute
- The Law Centres Network
- The Traveller Movement
- Together Scotland
- TUC
- UK Race and Europe Network
- Unicef UK
- Unison
- UnLock Democracy
- Wales PEN Cymru
- Welsh Women's Aid
- Women's Aid
- Women's Resource Centre
- York Human Rights City Network
- Youth Highland

# About this report

1. The British Institute of Human Rights (BIHR) has produced this report following eight consultation events and a call for evidence across Great Britain (GB),<sup>1</sup> engaging over 175 Civil Society Organisations (CSOs).<sup>2</sup>

## Devolution

2. The United Kingdom (UK) is made up of several countries. This report focuses on GB (England, Scotland and Wales) human rights issues and highlights notable differences in [Scotland](#) and [Wales](#), both of which have devolved administrations. The Human Rights Act has UK-wide coverage; however issues which impact on human rights protections (health, justice, education, etc.) fall within the legal and policy competence of the devolved administrations. Report recommendations are to the UK Government, as the State Party, but are also to devolved nations where applicable.

3. Contents:

- Introduction: context and CSO concerns about domestic human rights
- Key Themes:
  1. Domestic human rights protections
  2. Women's rights
  3. Children's rights
  4. Poverty, welfare and adequate standard of living
  5. Criminal justice, counter terrorism, racism and hate crime
  6. Immigration, asylum and trafficking
  7. Prisons

Issues without 2012 recommendations:

8. Access to Justice
  9. Additional equality and non-discrimination issues
- Concluding points
  - Annexes:
    - Methodology
    - Analysis of progress on 2012 recommendations
    - Summary of report recommendations
    - Glossary

## Introduction: Domestic leadership

4. Generally, the UK enjoys a good level of human rights protection; the Government often proclaims the virtues of human rights on the international stage. However, this report raises some serious concerns from CSOs about the negative direction of travel for our domestic human rights protections. Of particular concern is the denigration of the Human Rights Act (HRA), which makes a number of internationally-based standards enforceable here. Denigration of the HRA is a denigration of international human rights law. The UK's retrogressive debates are already negatively influencing other countries.<sup>3</sup> There is increasing concern that the UK's political rhetoric will, if not checked, threaten the coherence and credibility of the post-World War II human rights settlement.
5. The overarching concern among CSOs is the negative and often misleading narrative about human rights in UK political and media debates.<sup>4</sup> The UK Government has repeatedly confirmed its commitment to "scrap" our domestic law, the HRA (which is based on international standards)<sup>5</sup> and replace it with a new 'British' bill of rights, purportedly to "restore common sense".<sup>6</sup> CSOs are concerned this will be retrogressive.
6. The key causes for concern with the HRA identified by the UK Government relate to internationally-agreed key features of human rights, primarily:
  - universal application to all people, including marginalised groups (e.g. those who have committed crimes, asylum seekers or refugees)
  - enabling individuals to hold officials accountable for rights breaches
  - Government compliance with judicial rulings
7. It is widely recognised by CSOs that the HRA operates as a bill of rights by:
  - protecting everyone equally from arbitrary government actions
  - imposing duties on officials to refrain from infringing rights and to take positive steps to realise rights<sup>7</sup>
  - safeguarding the role of an independent judiciary
  - assisting Parliament to scrutinise law for human rights compatibility.
8. However, the rhetoric in national media and among senior officials often repeatedly misrepresents and misreports judicial cases, "blaming" human rights laws for situations/decisions which are about other laws or are only

partially about human rights (often centring on groups considered “unpopular” or “undeserving”). When the HRA has positively supported people, this is rarely discussed.

9. Many CSOs are deeply sceptical about the prospects, in the current political climate, for a new bill of rights to improve human rights protections in the UK. Notwithstanding this, if improvement is intended this can be done without HRA repeal, focusing on better implementation of current protections.

10. BIHR’s evidence is reflected in other inquiries:

- EU Select Committee (UK) concluded: ‘witnesses to this inquiry raise serious questions over the feasibility and value of a British Bill of Rights of the sort described by the [UK Minister] ... they make a forceful case for the Government to think again before continuing with this policy’;<sup>8</sup>
- [Scottish](#) Parliament Committee inquiry: ‘there is strong opposition from [Scottish](#) stakeholders to any repeal of the Human Rights Act 1998’;<sup>9</sup>
- 96% of evidence to the Commission on a UK Bill of Rights called for keeping the HRA (which most believe operates as a bill of rights).<sup>10</sup>

### Recommendation

**11. It is vital that the UK Government guarantees it will build upon the Human Rights Act, rather than amending or repealing it via a new bill of rights. Refusal to give such a guarantee should be recognised as an indication that there is a significant risk of the human rights framework in the UK being eroded.**

# 1. Domestic human rights protections

## Legal protection

12. **Recommendation 110.32 is at risk.** There are significant concerns among CSOs about the Government's stated policy to repeal the Human Rights Act (HRA) and replace it with a new 'British' bill of rights.<sup>11</sup> Significant evidence to BIHR expressed concerns about the negative direction of travel for human rights debates in the UK and that vulnerable groups would be left without protection if the HRA were repealed/weakened, particularly refugees, disabled people and children.
13. Comparatively the rhetoric in the devolved nations is more positive, with the [Scottish Government](#) and [Welsh Government](#) pledging support for the HRA.<sup>12</sup> Moreover, repealing the HRA would pose procedural problems for the devolved nations, since the rights are entrenched in devolution settlements.
14. **Recommendations 110.48 has not been met.** The UK generally complies with judgments of the European Court of Human Rights (ECtHR). However those on prisoner voting rights<sup>13</sup> remain outstanding, resulting in further findings against the UK.<sup>14</sup> The Government's policy is to not bring forward proposals on this matter, despite the recommendations of a Parliamentary Committee.<sup>15</sup> Additionally, the UK Government has a manifesto commitment to "curtail" the role of the ECtHR, which raises significant questions about complying with the international rule of law.<sup>16</sup>

## Devolution

15. Every consultation event and a number of submissions highlighted the lack of visibility of devolved differences in UK Government reporting, particularly on good practice. Key differences include:
- the [Scottish](#) National Action Plan for Human Rights
  - the Older People's Commissioner for [Wales](#) (which takes an explicit rights based approach)
  - the [Scottish](#) and [Welsh](#) administrations' actions to give more effect to rights in devolved legislation, including international law around children.

## Institutions

16. **Recommendation 110.38 has been met.** The Children's Commissioner for England's role is more explicitly linked to promoting and protecting children's rights in the CRC and with increased independence.<sup>17</sup>
17. **Recommendations 110.36 and 110.37 risk not being met.** The 2014 Government 'comprehensive budget review' of the EHRC, an NHRI, concluded its budget is adequate to discharge its functions.<sup>18</sup> However, in April 2016 further cuts to EHRC's staff and budget were reported, which may risk its conformity with the Paris Principles.<sup>19</sup>

## Incorporation of international law

18. **Recommendations 10.1 -110.6 and 110.8 – 110.31 have not been fully met.** Whilst the UK has ratified most international human rights treaties, there are some notable omissions<sup>20</sup> and reservations, and the UK has only ratified two optional protocols (CEDAW and UNCRDP) enabling individual petition. See paragraph 25 for incorporation developments in the [devolved nations](#).

## Regulation of CSOs

19. CSOs are concerned that Government policy proposals and recent legislation have negatively impacted CSOs' freedom of speech. The '**Lobbying Act**'<sup>21</sup> has created additional layers of regulation for CSOs such as charities and Trade Unions, already subject to rules on political activities. The Lobbying Act's chilling effect has been reported across jurisdictions. Research found 63% of charity respondents said the Act will make it harder to achieve their charitable objectives.<sup>22</sup> The recent **Hodgson Review** concluded that the Act did not strike the right balance.<sup>23</sup> The UK Government has yet to respond to the report's recommendations.
20. CSOs are also critical of UK Government proposals to introduce an 'anti-advocacy clause', restricting organisations that receive public money from lobbying Government. There are concerns about flawed research underpinning the proposal and its impact on CSOs being able to amplify community voices with the State. The [Scottish Government](#) has rejected including the clause in devolved funding arrangements.<sup>24</sup> The UK Government has paused but not rejected implementation of the clause.

## Trade unions

21. Serious concern has been expressed that recent legislation has introduced unjustified, disproportionate and discriminatory restrictions on trade unions activities. The **Trade Union Act 2016** sets statutory thresholds and

substantial new legal hurdles which unions must overcome to take lawful industrial action in defence of their jobs, livelihoods and working conditions.

## **‘Brexit’**

22. There is widespread concern about the impact of the UK referendum to leave the European Union on human rights. Whilst the HRA is separate from the EU, a number of other rights-based standards emanate from the EU, including equality and employment law standards. At this early stage the full impact of ‘Brexit’ for human rights is uncertain, but this is a key concern for CSOs.

### **Recommendations**

#### **22. The UK Government should:**

- **Commit to preserving the Human Rights Act, recognising that it gives effect to a range of international human rights laws. This should include ensuring political officials make accurate references to human rights and address myths and misrepresentations in public debate.**
- **Comply with the international rule of law and implement the ECtHR judgment in *Hirst v UK***
- **Facilitate commentary from devolved administrations on their experience of respecting, protecting and fulfilling human rights, ensuring this is fully captured in reporting**
- **Ratify the remaining UN human rights treaties and the optional protocols, removing reservations**
- **Ensure the EHRC has sufficient resources to remain an A status NHRI**
- **At a minimum, implement the Hodgson Review recommendations on the Lobbying Act**
- **Abandon the anti-advocacy clause and ensure CSOs’ freedom of speech**
- **Ensure the impact of ‘Brexit’ does not negatively impact UK human rights protections, but builds on them**
- **Review the Trade Union Act to remove unfair restrictions on the right to strike, union picketing and campaigning activities**

# Women's rights

## Equal pay and work

23. **Recommendations 110.62-65 have not been fully met.** Research (2016) shows the gender pay gap still exists in Britain at 18%. This increases for women with children, e.g. when a woman's first child reaches 12, her hourly wage will be 1/3 below men's.<sup>25</sup> From 2018, companies with 250+ employees will be required to publish their gender pay gap.<sup>26</sup>

24. Additional concerns include:

- 'job segregation', where certain lower paid work is viewed as 'feminine'<sup>27</sup>
- pregnancy-related discrimination, e.g. research showing 11% of mothers reported losing their jobs.<sup>28</sup>

## Violence against women and girls (VAWG)

25. **Recommendations 110.69-70, 77, 88, 99 have not been met, and 110.51, 71 and 40 risk not being met.** Evidence highlighted the lack of sufficient resources for VAWG support services, with funding decisions driven by economic concerns over survivors' rights. This is leading to both increased demand and service closures, e.g.:

- a 17% decrease in specialist services and a 11% decrease in non-specialist services between 2010-2014 (England)
- a 31% cut in funding to the sexual violence and domestic violence sector from local government which in 2015 was highlighted as an ongoing concern (England).<sup>29</sup>

A key concern was inadequate UK Government leadership and budgetary responsibility for VAWG services. The recent **Ending VAWG Strategy** (England and Wales) was noted;<sup>30</sup> and the separate strategy **Equally Safe** for [Scotland](#).<sup>31</sup> **Recommendation 110.29 & 74 have not been met** because the UK Government has signed not ratified the "Istanbul" Convention.<sup>32</sup>

26. There have been legislative developments on forced marriage and female genital mutilation. However, there are some concerns that the criminalization route may prevent women from reporting harm.

27. Positive legislative steps in [Wales](#) include the **Violence Against Women, Domestic Abuse and Sexual Violence (Wales) Act 2015**, although the lack of mandatory funding for support services may impact implementation. Similarly [Scotland](#) has passed the **Abusive Behaviour and Sexual Harm (Scotland) Act 2016**.



28. Concern with child contact cases involving domestic abuse were noted. Research shows that between 2005-2015, 19 children and 2 mothers were killed in 12 families by men who were fathers to the children and had access to them via formal and informal contact arrangements.<sup>33</sup>
29. Concerns continue to be made about women with no recourse to public funds (NRPF), leaving women to choose between leaving a violent partner and living in destitution or staying in the relationship. There is a **Destitution Domestic Violence Concession Rule** for women on spousal visas (although the evidential requirements continue to raise concerns). There is no similar VAWG concession for migrant women with other visas or those who are undocumented migrants.

## Recommendations

### 30. The UK Government should:

- **Implement and monitoring new gender pay gap mechanism and combat gender segregation in different sectors**
- **Appoint a high level Minister with responsibility and budget to coordinate law, policy and funding for VAWG services, underpinned by survivors' human rights**
- **Ensure the risk of VAWG is properly understood by officials making decisions about child contact**

# Children's rights

## The Convention on the Rights of the Child (CRC)

31. The UK Government has not incorporated the CRC.<sup>34</sup> The [devolved nations](#) have taken steps to give effect to CRC provisions through Ministerial duties in the [Welsh Rights of Children's and Young People Measure \(Wales\) 2011](#)<sup>35</sup> and the [Scottish Children and Young People \(Scotland\) Act 2014](#).<sup>36</sup>

## Corporal punishment

32. **Recommendations 110.78-80 remain unmet.** The UK Government remains committed to maintaining the legal defences of 'reasonable punishment'<sup>37</sup> for parents/guardians in England and Wales. The Scottish Government<sup>38</sup> have stated that the defence of 'justifiable assault'<sup>39</sup> in [Scotland](#) will remain in force. Our evidence submissions raised concerns that this exposes children to degrading treatment.

33. The Welsh Government have committed to repealing the 'reasonable punishment' defence as it applies in [Wales](#).<sup>40</sup>

## The age of criminal responsibility

34. **Recommendations 110.94-95 remain unmet.** There is concern that the age of criminal responsibility in England, [Wales](#) and [Scotland](#) (between 8-12 years)<sup>41</sup> is still 'internationally unacceptable' as identified by the CRC Committee.<sup>42</sup>

## Child soldiers

35. **Recommendation 110.34 remains unmet.** The UK remains the only European country ordinarily recruiting 16 year olds into the armed forces,<sup>43</sup> despite participating in efforts to end it elsewhere. Concerns include unequal educational participation and worker protections compared to civilians, and future elevated risks of unemployment and mental health problems.<sup>44</sup>

## Child trafficking

36. **Recommendations 110.72 has not been fully met.** In 2014, 732 children were identified as victims or potential victims of trafficking in the UK, up 22% from 2013.<sup>45</sup> [Scotland](#) has a scheme for appointing independent guardians for unaccompanied children. Despite trialling and evaluating an advocacy scheme for child trafficking victims in England and Wales,<sup>46</sup> the UK Government has not committed to nationwide implementation (only further trials).<sup>47</sup>

## Family reunification/ resettlement

37. Positive measures on family reunification include extending the UK's Syrian Vulnerable Persons Resettlement scheme and the commitment to resettle unaccompanied 'children at risk' from the MNA region.<sup>48</sup>
38. Whilst the Government has pledged to 'meet obligations under the Dublin regulations',<sup>49</sup> there is concern about the position of British children with non-EEA parents or grandparents who are affected by the Government's family migration rules. Reports estimate that 15,000 children have been separated from parents due to these rules.<sup>50</sup>

## Education

### Sex and Relationships Education (SRE)

39. Submissions from a range of CSOs, including [Scotland](#), raise concerns about the content and voluntary status of SRE. This echoes conclusions by a UK Parliamentary report that 'young people consistently report that the SRE they receive is inadequate'<sup>51</sup> and by the Special Rapporteur on the Right to Education that SRE should cover sexual health.<sup>52</sup>

### Gypsy, Traveller and Roma (GTR) children

40. **Recommendation 110.106 is not fully met.** Evidence continues to indicate that GTR children are less likely to achieve a good level of development compared to their peers. Further, nearly 9/10 GTR children have experienced racial abuse, and 2/3 have been bullied or physically attacked.<sup>53</sup>

### Non-religious children

41. All children in state schools are required to take part in collective worship (Christian in character); in England and Wales this is daily. There are concerns about the inadequacy of withdrawal rights, and that children with sufficient understanding are not able to withdraw themselves.

## Prison

42. **Recommendations 94 and 96 are partially met.** Significant evidence was submitted about children in prison,<sup>54</sup> including:
- **restraint:** whilst the overall number of children in custody has reduced, the use of restraint has doubled over last five years, with 4,387 instances of restraint in 2014-2015 (England & Wales).<sup>55</sup>
  - **Medway:** following a BBC documentary uncovering abuse and mistreatment of young people at Medway Young Offenders Institute, a

Government-commissioned inquiry documented severe concerns.  
However, the centre remains open.<sup>56</sup>

## Recommendations

### 43. The UK Government should:

- **Increase the minimum age of armed forces recruitment to 18 and ensure the educational and development needs of young recruits are met**
- **Ensure all victims or potential victims of trafficking, unaccompanied and separated children have access to an independent guardian or advocate**
- **Provide adequate and compulsory Sex and Relationships Education to young people**
- **Abolish segregation and restraint mechanisms in young offender institutes where used to promote good behaviour**
- **Ensure children are free to withdraw from religious observance**
- **Implement inclusive education specifically for GTR students, addressing bullying and disproportionalities in exclusion, absences and attainment at all key stages**

# Poverty, welfare and adequate standard of living

## Adequate standard of living

44. **Recommendations 110.41, 110.44, 110.101, 110.103 have not been fully met and remain at risk.** Recent policy and legislative changes have seen a regression in standards of living and the welfare system's ability to tackle poverty, homelessness and worklessness. This is having a negative impact on vulnerable social groups.

### Welfare Reform Act 2012

45. The Parliamentary Joint Committee on Human Rights (JCHR) warned that 'the cumulative impact of the Bill's provisions may lead to retrogression'.<sup>57</sup> Evidence gathered since the Act's implementation<sup>58</sup> confirms this; key examples are below.

46. **Disabled people:** The abolition of disability premiums could result in 100,000 disabled children losing up to £28 a week. Changes to personal allowances will leave single parents with severe disability needs with £73 less a week.

47. **Removal of the spare room subsidy (dubbed 'the bedroom tax'):** Introduced to encourage families to move out of social housing deemed 'too big', welfare benefits are reduced for those under-occupying. People have to meet the shortfall in rent themselves or be moved to alternative accommodation. A UK Government report shows 20% of affected households are unable to meet these costs and over 50% have cut other essentials like energy, electricity and food to pay rent.<sup>59</sup> There have been a number of legal challenges to the policy based on its discriminatory impact<sup>60</sup> e.g. on disabled adults and children, carers, domestic violence victims, separated parents and others.

48. **Discretionary Housing Payments (DHP)** can provide a temporary 'top up'. However, many claimants are unaware of DHP, and half of those who applied via Shelter's online tool were refused 'despite facing hardship and imminent destitution'.<sup>61</sup>

### Household benefit cap

49. Social security entitlement has been capped.<sup>62</sup> This disproportionately impacts on single parents, children and BME groups.<sup>63</sup> The Supreme Court ruled that the cap violates the UNCRC but did not overturn the

policy.<sup>64</sup> The UK Government has further reduced the cap to £20,000 per annum for households outside of London and £23,000 for those within Greater London through the Welfare Reform Work Act 2016, affecting 92,000 more households.<sup>65</sup>

## Benefit sanctions

50. Benefit sanctions have significantly increased, and evidence suggests links to rising destitution and food bank use.<sup>66</sup> Many claimants have received sanctions in error.<sup>67</sup> There is no evidence that sanctioning is effective in getting people back to work.<sup>68</sup> The [Scottish Government](#) recently stated it will not comply with UK Government requests for information if this will lead to sanctions against individuals.<sup>69</sup>

51. The [Scottish Government](#) has extended DHP to cover tenants who would otherwise lose benefit entitlements. In 2017 £2bn+ worth of welfare powers will be devolved to the Scottish Government, who are planning a benefits system built on “fairness, dignity and respect”.<sup>70</sup>

## National Living Wage

52. The UK Government introduced a National Living Wage in 2016, to increase minimum wage to over £9 per hour by 2020. This does not apply to those under 25. Rates are not set in accordance with recommendations from the Living Wage Foundation.<sup>71</sup>

## Welfare Reform and Work Act 2016 (WRWA)

53. In addition to the decreased benefit cap, the WRWA raises further concerns, including:

- freezes to working-age benefits for four years from April 2017.
- removal of the Child Tax Credit entitlement for third or subsequent children born after 6 April 2017. Exceptions only exist where there are multiple births or the child is conceived through rape.
- repeal of the Child Poverty Act 2010. Although the Government will publish child poverty data, there are no longer statutory targets or a duty to report. The [Scottish Government](#) disagreed with this approach and intends to re-establish statutory child poverty targets for Scotland.<sup>72</sup>

## Housing

54. **Recommendation 110.103 has not been fully met.** Submissions raised concerns about housing and homelessness, including:

- current building rates: by 2031, England will have 2.5 million fewer homes than needed.<sup>73</sup>
- 29% of private sector tenants are in substandard housing.<sup>74</sup>
- since 2010 there has been a 55% increase in rough sleeping with figures suggesting an increase of 30% from 2014 to 2015.<sup>75</sup>

## Foodbanks

55. There has been an unprecedented rise in foodbanks, and several submissions directly related this to welfare cuts and austerity measures. One million people were provided with 3 days of emergency food in 2015/16.<sup>76</sup>

### Recommendations

56. The UK Government should:

- **Monitor and review the impact of welfare reforms on living standards, increased poverty and food insecurity, and work to break the link between welfare support and poverty**
- **Pause and review its sanctioning policy, ensuring no person is pushed in to destitution**
- **Abolish the spare room subsidy since it causes destitution and has not served its purpose**
- **Reconsider changes to child poverty policy and ensure no child is living in poverty**
- **Create a living wage that accurately reflects the cost of living within the UK**

# Criminal justice, counter terrorism, racism and hate crime

57. The EHRC's recent review of race inequality flags significant concerns in education, employment, housing, pay and living standards, health, criminal justice and participation, and the need for coordinated government action.<sup>77</sup>

## Counter-terrorism

58. **Recommendation 110.58 has not been fully met.** New legislative powers<sup>78</sup> are failing to address criticism about the discriminatory impact of counter-terrorism powers on students.<sup>79</sup> Particular concerns were raised about the UK Government's Prevent Programme, purporting to stop people becoming terrorists or supporting terrorism. From 2015, organisations such as schools and universities have a legal duty to monitor and report on students, staff and others at risk of 'violent extremism'.<sup>80</sup> Concerns relate to the implementation and potential discrimination of the Prevent Programme, including increased unfounded referrals to police.<sup>81</sup>

59. There are also concerns about the Government's **Investigatory Powers Bill**. This will vastly expand the data-gathering powers of security services, police and other public bodies (beyond the justice sector), enabling them to access information on everyone, including journalists and trade unionists.

## Stop and search

60. **Recommendations 110.54-58 have not been fully met.** Steps have been taken to address misuse of stop and search powers and whilst usage has decreased, in England BME communities continue to be disproportionately affected.<sup>82</sup> There was a lack of ethnicity data in [Wales](#) to make comparisons. Whilst there was no significant difference in proportions of BME stop and searches in [Scotland](#), data collection concerns are being reviewed.<sup>83</sup>

61. Police inspectorate (HMIC) reviews (2013-16) raise repeated concerns, including the failure of 13/43 police forces in England and Wales<sup>84</sup> to comply with the Government's 2014 Best Use of Stop and Search Scheme.<sup>85</sup> A new Code of Practice for 2017 will cease the use of "consensual" stop-and-search in [Scotland](#).<sup>86</sup>



62. Reforms to Schedule 7 of the Terrorism Act 2000<sup>87</sup> enable ‘examining officers’ at ports and airports to stop, question and/or detain people who may be engaged in acts of terrorism, without the need for any reasonable suspicion.<sup>88</sup> Whilst there are some safeguards in place, concerns remain that this power is too broad.<sup>89</sup>

63. Concerns have been raised about disproportionate stop-and-searches on children in England and Wales<sup>90</sup> and [Scotland](#).<sup>91</sup> In 2015 the Scottish Police Authority stated stop and search of children under 12 would cease, but this practice was raised in our consultation events.<sup>92</sup>

## Hate crime

64. **Recommendations 110.59, 60 and 90 have not been fully met.** The EHRC report that race is the most commonly recorded motivation for hate crime in England and Wales (82% of recorded motivations) and in [Scotland](#), although their racially motivated hate crime is at its lowest level since 2003/04. Research in England and Wales shows that in 2014/15, there were 52,528 hate crimes recorded by the police, an increase of 18% to 2013/14, of which:

- 82% were race-related
- 11% were sexual orientation-related
- 6% were religion-related
- 5% were disability-related
- 1% were transgender-related.<sup>93</sup>

Data also suggests a 66% increase in hate crime against transgender people.<sup>94</sup> In [Scotland](#) reported hate crime fell in all categories except disability, up 14%, and sexual orientation, up 20% (2015-16). Race-related incidents remain the most commonly reported hate crime.<sup>95</sup>

65. Recent data also shows a post-Brexit 42% increase in hate crime,<sup>96</sup> with the peak in offending occurring the day after the referendum (289 offences across the UK).<sup>97</sup> Reports show that since the Government’s policy of creating a ‘hostile environment’ for irregular migrants, BME individuals have been discriminated against even though they have the right to be in the UK.<sup>98</sup>

## Recommendations

### 66. The UK Government should:

- **Commission a full, transparent and independent audit of the Prevent Strategy**
- **Continue efforts to ensure stop and search powers are used appropriately and not disproportionately, including considering the development of statutory guidance and accountability for misuse of police powers**
- **Ensure robust data collection on hate crime, and take steps to ensure that groups most likely to be affected are better protected**
- **Closely monitor the impact of 'Brexit' on hate crime and address this**

# Immigration, asylum and trafficking

## Detention

67. **Recommendations** 110.108, 110.110-115 and 110.44, **remain unmet and at risk**. The UK is still the only European country without a time limit on detention. Despite UK Government assurances that detainees are only held for the minimum period necessary, some are held for up to four years.
68. In 2015 the number of people held in immigration detention rose to 32,446.<sup>99</sup> In 2014-15 the Government paid £4 million to detainees in compensation for unlawful detention.<sup>100</sup>
69. Evidence submissions highlighted mistreatment of immigrants in detention centres, including assault and sexual abuse. Specific concerns were raised about the impact detention has on children, pregnant women, torture survivors and those with mental health issues.
70. Several reviews have raised concerns about the health and welfare of people in immigration detention. The 2014 **Tavistock Review** on mental health highlighted the lack of psychological talking therapies, and mutual antagonism and suspicion between the Home Office, NGOs, regulators and CSOs in the sector.<sup>101</sup> The 2016 **Shaw Review** raised concerns about detainees' welfare and mental health, and proposed a number of recommendations.<sup>102</sup> Whilst the UK Government has accepted the 'broad thrust' of the Review, no point-by-point response has been given.<sup>103</sup>
71. Whilst there have been some potential positive<sup>104</sup> legislative developments, submitted evidence raises concerns about regressive measures:
- removing cases on the right to respect for private and family life (Article 8, HRA) in immigration matters from automatic legal aid.<sup>105</sup> Our submissions suggest this may deter valid concerns.
  - the 'deport first, appeal later' procedure.<sup>106</sup> Our submissions suggest this may discourage deportees to appeal.
  - the requirement on landlords to check tenants' immigration status.<sup>107</sup> Our submissions suggest this may lead landlords to discriminate against people who 'appear' foreign.
  - restrictions on appeal rights at the Asylum Support Tribunal.<sup>108</sup>
  - the criminalisation of undocumented workers who now face custodial sentences and having their wages seized as 'proceeds of crime'.

72. There are also concerns about:

- the unnecessarily personal evidence LGBT asylum seekers are asked to produce to ‘prove’ their sexuality
- the treatment of women seeking asylum who have experienced violence, particularly the disparity in treatment of women settled in Europe and those travelling to Europe to seek asylum.<sup>109</sup>

## Trafficking

73. **Recommendations 110.73 -76, are partially met, but remain at risk.**

The Government has introduced the Modern Slavery Act 2015, which:

- consolidates existing slavery and trafficking offences
- establishes an independent Anti-Slavery Commissioner
- sets out a new statutory defence for slavery or trafficking victims compelled to commit criminal acts.

Additionally, pilots of a reformed National Referral Mechanism (NRM) for identifying trafficking victims are taking place in two areas in England.

74. However, CSOs have raised concerns that:

- the Act is not adequately focussed on victims’ rights; the [Scottish](#) equivalent law contains enhanced support for victims<sup>110</sup>
- victims face significant difficulty in accessing medical, counselling and legal services, which can impact destitution, detention, or re-trafficking
- victims tend not to consent to NRM referrals because their immigration status is precarious, with some evidence also highlighting different treatment of victims dependent on their nationality.

### Recommendations

75. **The UK Government should:**

- **Hold a human rights-compliant inquiry into allegations of government complicity in torture without further delay**
- **Relook at immigration detention law and policy, ensuring it is only used where necessary and proportionate**
- **Urgently improve conditions in detention settings to ensure detainees basic rights are respected and protected, with consideration of those in particularly vulnerable situations**
- **Reform law, policy and practice to ensure detainees’ access to justice within the UK**
- **Ensure anti-trafficking measures should prioritise providing appropriate support to victims**
- **Amend the regressive measures introduced by the Immigration Act 2016**

## Prisons

76. **Recommendations 110.86-87 and 96 have not been met.** Evidence submitted raised growing concerns that the prison system is no longer fit for purpose. Key issues include:

### Overcrowding

77. There are more prisoners in 74/118 prisons in England and Wales than the buildings were designed to hold, impacting on the ability of prisoners to engage in purposeful activity. In the last two years 20% of prisoners have told inspectors that they spend less than two hours a day out of their cell. In 2015 75% of prisons inspected had unacceptably low levels of purposeful activity.<sup>111</sup>

### Safety

78. Serious assaults have more than doubled in the last three years (England and Wales). Statistics identify 2,197 serious prisoner-on-prisoner assaults and 625 on staff in 2015. It is thought this is directly related to a decrease in staff.<sup>112</sup>

### Deaths

79. Between 2015-16, 290 people died in prisons across England and Wales, the highest on record, with over a third resulting from suicide. This reverses a trend towards lower suicide rates in the previous seven years.<sup>113</sup>

### Segregation

80. Research found that segregation and its conditions in England and Wales are used excessively, falling below UN standards. The **Harris Review** (2015) raised concern about self-inflicted deaths in custody among 18-24 year olds who had spent prolonged periods in segregation.<sup>114</sup> The Supreme Court has recently highlighted the risks to physical and mental health that prolonged solitary confinement could have on prisoners.<sup>115</sup> The UK Government has subsequently revised the segregation policy to include time limits and review procedures.<sup>116</sup>

## Recommendations

### 81. The UK Government should:

- Take action to reduce prisoner assaults and ensure prisoners have access to purposeful activity
- Review segregation use and the harmful mental health impacts
- Reduce the disproportionate number of women on short custodial sentences and of people from ethnic minorities in prison

## Access to Justice

82. Evidence submissions raised concerns about changes to legal aid funding, which have emerged since the 2012 UPR. Three key concerns were:

- applying for and receiving legal aid (under the 'LASPO' law)<sup>117</sup>
- significant tribunal fees increases<sup>118</sup>
- arrangements for funding and approving of judicial review claims<sup>119</sup>

Although LASPO reforms mainly impact England and Wales, the [Scottish](#) legal aid budget is the lowest for a decade.<sup>120</sup>

83. There is widespread concern that cuts to legal aid have impacted on the most disadvantaged groups in society, deterring potentially successful legal cases and challenges, and removing sources of advice and support. There is a disproportionate impact on women, children, BME communities, disabled people and people living in poverty.<sup>121</sup>

84. Legal cases (judicial review) have successfully challenged some LASPO measures.<sup>122</sup> However, changes to rules to bring a judicial review essentially make it more difficult to challenge LASPO (and generally being able to challenge government decisions). This is in addition to changes to courts and tribunal fees, which have also negatively impacted access to justice according to our evidence and a recent parliamentary report.<sup>123</sup>

85. The Government has committed to reviewing the reforms but not before 2018<sup>124</sup> despite a range of CSOs consistently calling for an urgent review of LASPO.

86. In July 2013, the UK Government introduced fees to bring claims to the Employment and Employment Appeal Tribunals. A review of this was launched in June 2015,<sup>125</sup> but this remains unpublished. Parliament's Justice Committee reports that applications brought by individuals have dropped by 67% (from October 2014-June 2015) and by 72% for cases brought by more than one person (from October 2013-June 2014).<sup>126</sup>

## Recommendations

### 87. The UK Government should:

- **Eliminate Employment Tribunal fees**
- **Reinstate appropriate legal aid funding to ensure everyone has access to justice, particularly the most marginalised groups, including (but not limited to) those with insecure immigration status, disabled people, BME people, victims of domestic violence and people living in poverty.**

## Additional equality and non-discrimination issues

88. Evidence submitted to BIHR raised the importance of addressing discrimination experienced by a range of groups who were not represented in the 2012 recommendations.

### Mental health / capacity

89. Evidence submitted raised a number of issues, including:

- The underfunding of mental health services, resulting in just 25% of people receiving help.<sup>127</sup> In England, funding for mental health trusts has dropped in real terms by 8.25% since 2010.<sup>128</sup> Shortfalls in services have resulted in the police responding to people in crisis. In 2014-15, in England and Wales, the police picked up 23,128 people in mental health crisis and 4,537 were taken to a police cell because there was no other safe place available (although this is down from the previous year).<sup>129</sup>
- Patients being placed in units far away from their home and support networks as a result of closing in-patient units. In 2015-16, 5,411 patients were sent 'out of area'.<sup>130</sup>
- The disparity across the UK in accessing talking therapies. In 2014-15, 33% of people in England waited longer than 28 days to start treatment following referral and 7% longer than 90 days.<sup>131</sup> In [Wales](#) data shows 57% of people waited over three months for an assessment and their first session.<sup>132</sup>
- Concern that legal protections for people with mental capacity issues are not sufficient, including that the **Mental Capacity Act** and the **Deprivation of Liberty Safeguards** in England and Wales are no longer fit for purpose (the Law Commission is reviewing both<sup>133</sup>) and that the **Adults with Incapacity Act** in [Scotland](#) is not compatible with human rights standards.



## Sexual orientation and gender identity

90. Whilst the Marriage (Same Sex Couples) Act 2013 was seen as positive, the requirement that a partner's consent is needed to allow marriage to continue after the other undergoes gender reassignment has attracted criticism.
91. Evidence submissions also noted that the experiences of transgender people and those with non-binary gender identities are not adequately accommodated within current conceptions of gender or sexuality (e.g. in the Gender Recognition Certificate which could pathologise transgender people). The on-going discrimination LGBT people face from healthcare providers, employers and schools was also raised.

## Older people

92. Evidence submissions noted concerns that older people face inadequate or inconsistent standards of health and social care. Inconsistencies were identified in the treatment of older people in publicly funded, fully private, and contracted-out care homes. It was also suggested that budget cuts to social care have a disproportionate impact on older people, a growing demographic.

## Gypsy, Traveller and Roma (GTR) people

93. Research repeatedly places GTR communities as among the most disadvantaged in UK society, as confirmed by the submitted evidence.<sup>134</sup> Surveys have found that between 80-98% of GTR people report discrimination and/or hate crime, and their life expectancies are lower than any other ethnic group.<sup>135</sup>
94. Concern was also expressed about the 2015 Planning Policy for Traveller Sites which changes the definition of 'Traveller' to exclude those who have stopped moving. This disproportionately impacts older, unwell or disabled GTR people.<sup>136</sup> Moreover, the shortage of authorised sites leads to unauthorised encampments, which aggravates already existing tensions between GTR communities and local authorities, enhancing negative public attitudes.<sup>137</sup>

## Disabled people

95. A Parliamentary committee recently (2015) assessed the impact of the Equality Act 2010 on disability discrimination, concluding it was unsatisfactory.<sup>138</sup> Particular issues raised in our evidence submissions include:

- the significant and disproportionate impact of welfare reforms on disabled people.g. Work Capability Assessments have seen numerous disabled people incorrectly assessed as fit for work<sup>139</sup>
- concerns about the portrayal of disabled people as ‘benefit scroungers’, perpetuated by some sections of the media and political leaders<sup>140</sup>
- new tribunal fees being a disincentive to bringing discrimination cases

## Non-religious people

96. There are concerns about the ability of state-funded religious schools to lawfully discriminate against non-religious families by selecting pupils based on religion, and the impact of plans to lift the current 50% selection limit which generally applies to new English schools.<sup>141</sup>

97. In England, the Government has opposed the equal inclusion of non-religious worldviews in statutory school religious education, despite a High Court case last year showing this is required.<sup>142</sup>

### Recommendations

#### 98. The UK Government should:

- **Roll out human rights approaches to law, policy and service development in mental health in compliance with human rights standards**
- **Remove the Employment Tribunal fees which have created barriers for disabled people accessing remedies when experiencing discrimination**
- **Review the requirement of partner consent to continue a marriage after a gender reassignment under the Marriage (Same Sex Couples) Act 2013**
- **Increase social care resources to ensure older people receive adequate and consistent access to healthcare**
- **Adopt a statutory duty on local authorities to provide safe, adequate sites for GTR people including a mechanism for their meaningful participation in planning and decision-making processes**
- **Ensure non-religious worldviews form part of the statutory school religious education curriculum**

## Report conclusion

99. There are many positive aspects to human rights protections in the UK. However, as this report suggests, there remain a number of areas identified in the 2012 recommendations and additional issues, which must be effectively addressed by the UK Government to ensure human rights at home are respected, protected and fulfilled in accordance with international standards. Additionally, as much of the policy and legislative actions which impact on human rights protections are devolved in [Scotland](#) and [Wales](#), and no longer within the UK Government's remit, the UPR process needs to ensure this is fully addressed and assessed.

100. The UK Government has acknowledged the importance of the UPR for CSOs<sup>143</sup> and we submit this report in the spirit of ensuring progress. Concerted positive action - promoting rather than denigrating international standards - must be taken to ensure the UK Government can truly fulfil its ambition to "stand for freedoms and uphold universal rights".<sup>144</sup>

<sup>1</sup> The UK includes a number of devolved nations. The funding for this project (see endnote 2) covered Great Britain, it therefore refers to the human rights situation in England, Scotland and Wales.

<sup>2</sup> The project was funded by the Equality and Human Rights Commission (EHRC), a UK NHRI. For more information about how this report was developed and drafted please see Report Annex 2: Methodology.

<sup>3</sup> For example, there are reports that the UK's negative debates on human rights are causing concern in Russia to families of human rights victims who worry about the impact of the UK renegeing on these standards and the example this sets for their government. There have also been remarks in the Kenyan parliament to resist international accountability for human rights violations in the International Criminal Court by referencing the UK Government's arguments about sovereignty in current UK domestic debates. See the submission by Amnesty International Scotland to the Scottish European and External Affairs Committee Human Rights Inquiry [http://www.parliament.scot/S4\\_EuropeanandExternalRelationsCommittee/General%20Documents/Amnesty\\_International\\_Scotland.pdf](http://www.parliament.scot/S4_EuropeanandExternalRelationsCommittee/General%20Documents/Amnesty_International_Scotland.pdf)

<sup>4</sup> This was raised at every consultation event and most written submissions.

<sup>5</sup> The rights in the HRA emanate from the European Convention on Human Rights, which explicitly draws on the Universal Declaration of Human Rights.

<sup>6</sup> Queen's Speech 2016: background briefing notes

[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/524040/Queen\\_s\\_Speech\\_2016\\_background\\_notes.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/524040/Queen_s_Speech_2016_background_notes.pdf) (18 May 2016).

<sup>7</sup> Using this duty the HRA has benefitted countless individuals and helped the public sector deliver services which are fair, responsible and meet all people's basic needs, especially the most vulnerable members of our society. BIHR's report 'The Human Rights Act: Changing Lives' documents 31 examples of how this direct usage of the principles and values of the Human Rights Act has secured human rights for individuals without going to a court of law.

<http://www.bihr.org.uk/documents/policy/changing-lives-second-edition> The Human Rights Futures project at the London School of Economics (LSE) has produced a briefing outlining landmark rulings under the Human Rights Act, May 2011.

<http://www2.lse.ac.uk/humanRights/articlesAndTranscripts/2011/KlugLandmarks.pdf>

<sup>8</sup> House of Lords EU Justice Committee Report: UK Bill of Rights, 12th Report of Session 2015–16 (May 2016), [www.publications.parliament.uk/pa/ld201516/ldselect/lddeucom/139/139.pdf](http://www.publications.parliament.uk/pa/ld201516/ldselect/lddeucom/139/139.pdf)

<sup>9</sup> Scottish Parliament. European and External Relations Committee, 3 March 2016, <http://www.parliament.scot/parliamentarybusiness/report.aspx?r=10416&i=95872>

<sup>10</sup> British Institute of Human Rights, Summary of Final Report from the Commission on a UK Bill of Rights

(January 2013) <https://www.bihr.org.uk/Handlers/Download.ashx?IDMF=d856197b-36f9-4979-b516-06d3f78635c9>

<sup>11</sup> See Endnote 6

<sup>12</sup> See the Joint Statement by the First Minister of Wales and the First Minister of Scotland (3 June 2015) which states "The UK Government's proposal to repeal the Human Rights Act sends out a message to the world that the UK is not a place that prioritises and respects international standards in human rights. It is also clear that UK Ministers have given absolutely no thought to the implications of such a move for devolved government in the UK, with human rights being embedded in the devolution settlements of Wales and Scotland and in the Good Friday Agreement. Both our governments are fundamentally opposed to this regressive move and will do everything we can to resist it."

<http://news.scotland.gov.uk/News/First-Ministers-of-Scotland-and-Wales-meet-1988.aspx> For **Scotland** see further: 'UK 'reckless' to repeal Human Rights Act' 30 June 2016; In Autumn 2015, the Scottish Parliament European and External Relations Committee issued a call for written evidence on the potential implications for Scotland of the repeal of the Human Rights Act 1998 and the introduction of a British Bill of Rights. The Scottish Government submitted a [response](#) on 30 November 2015 which stated "[it is] clear to the Scottish Government that such a move would be misconceived in its intent and detrimental in its overall effect."; On 12 November 2015, Alex Neil MSP, Cabinet Secretary for Social Justice, Communities and Pensioners' Rights gathered together stakeholders from all parts of the UK at an event to express collective support for the Human Rights Act 1998; In a [speech](#) delivered in Glasgow on 23 September 2015, the First Minister set out the Scottish Government position that the UK Government's proposals will diminish the country's reputation overseas, damage relations with devolved governments, and impact on people's welfare; On 11 November 2014 the Scottish Parliament passed a [motion](#) in support of the Human Rights Act by 100 votes to 10. For **Wales** see also the Welsh Government evidence to the EU Justice Sub Committee.

The report, published in May 2016, states: “The Welsh Government was “fundamentally opposed” to the repeal of the HRA and to withdrawal from the ECHR.”

<http://www.publications.parliament.uk/pa/ld201516/ldselect/lddeucom/139/13902.htm>

<sup>13</sup> Hirst v UK [2005]

<sup>14</sup> Hirst v UK; Greens and MT v UK [2010]; Firth v UK [2014]; McHugh v UK [2015]; Millbank v UK [2016].

<sup>15</sup> House of Commons Library Briefing Paper Number CBP 7461, Prisoners' voting rights: developments since May 2015, 15 February 2016.

<http://researchbriefings.files.parliament.uk/documents/CBP-7461/CBP-7461.pdf>

<sup>16</sup> Conservative Party Manifesto 2015: ‘curtail the role of the European Court of Human Rights’ (page 58); ‘The next Conservative Government will scrap the Human Rights Act, and introduce a British Bill of Rights. This will break the formal link between British courts and the European Court of Human Rights, and make our own Supreme Court the ultimate arbiter of human rights matters in the UK’ (page 60) <https://s3-eu-west-1.amazonaws.com/manifesto2015/ConservativeManifesto2015.pdf>

<sup>17</sup> Part 6 of the Children and Families Act 2014

<sup>18</sup> Comprehensive Review of the Equality and Human Rights Commission’s (EHRC’s) budget (17 January 2013) <https://www.gov.uk/government/publications/comprehensive-review-of-the-equality-and-human-rights-commission-s-ehrcs-budget>.

<sup>19</sup> See for example Disability News Service 21.04.2016 which reports that the EHRC issued an internal consultation that placed as many as 29/200 posts at risk. It also notes that the EHRC budget for 2016-17 was frozen at £17.1 million, a real term cut, following years of cuts to funding since 2010.

<sup>20</sup> The UK has not ratified the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, or the International Convention for the Protection of All Persons from Enforced Disappearance. We recommend the UK signs up to these treaties, to signal the importance the UK places on upholding universal human rights standards. Nor has the UK ratified the optional protocols to, for example, the International Covenant on Economic Social and Cultural Rights or the International Covenant on Civil and Political Rights, which allow individual petitions. We believe this right is an important safeguard which plays an important role in building engagement between the UN system and civil society. We recommend that the UK moves swiftly to ratify these two protocols. Thirdly, some of the UK’s declarations and reservations remain problematic and should be reviewed with a view to their withdrawal. The UK’s declaration to the Optional Protocol to the Convention on the Rights of the Child (CRC) on the involvement of children in armed conflict (OPAC) is described by the UK as an “interpretive statement”, rather than a reservation. As the declaration limits the legal effect of article 2 of OPAC it is tantamount to acting as a reservation, and it has not been reviewed or removed following the recommendation of the previous UPR1

<sup>21</sup> The full title is the Transparency of Lobbying, Non-Party Campaigning and Trade Union Administration Act 2014. It was initially passed to curb the disproportionate influence of non-party organisations in General Elections.

<sup>22</sup> Commission on Civil Society and Democratic Engagement ‘Inquiry: Impact of the Lobbying Act on civil society and democratic engagement during the run-up to the 2015 General Election’ (Sept 2015)

<http://civilsocietycommission.info/wp-content/uploads/2013/09/FINAL-Civil-Society-Commission-Report-no4-Sept-2015.pdf>. See also SCVO ‘Lobbying Act and the third sector in Scotland –

independent research findings’ (May 2016) <http://www.scvo.org.uk/long-form-posts/lobbying-act-and-the-third-sector-in-scotland-independent-research-findings/>; NCVO Submission to the Third Party Campaigning Review (Sept 2015) <http://blogs.ncvo.org.uk/wp-content/uploads/2015/09/NCVO-submission-to-Third-Party-Campaigning-Review-final.pdf> (England); and

<sup>23</sup> The Lord Hodgson of Astley Abbots CBE, Third Party Election Campaigning – Getting the Balance Right: Review of the operation of the third party campaigning rules at the 2015 General Election (March 2016)

[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/507954/2904969\\_Cm\\_9205\\_Accessible\\_v0.4.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/507954/2904969_Cm_9205_Accessible_v0.4.pdf).

<sup>24</sup> See for example ‘No gagging clause in Scottish Government grants’ Third Force News 18 Feb 2016 <http://thirdforcenews.org.uk/tfn-news/no-gagging-clause-in-scottish-government-grants>

<sup>25</sup> Institute for Fiscal Studies, The Gender Wage Gap (IFS Briefing Note BN186) 2016 <https://www.ifs.org.uk/uploads/publications/bns/bn186.pdf>.

<sup>26</sup> Following several consultations the Equality Act 2010 (Gender Pay Gap Information) Regulations 2016 are due to commence in October 2016. Previously Government steps have largely focused on the non-statutory ‘Think, Act, Report’ framework Government Equalities Office, ‘Think, Act, Report’ (2011) <https://www.gov.uk/government/publications/think-act-report-framework>.

- 27 Fawcett Society's consultation response to 'Closing the Gender Pay Gap' (2015) <http://www.fawcettsociety.org.uk/wp-content/uploads/2015/09/Gender-Pay-Gap-Consultation-response-Fawcett-Society.pdf>.
- 28 Department for Business, Innovation and Skills (BIS) and the Equality and Human Rights Commission (2016) 'Pregnancy and Maternity Related Discrimination and Disadvantage: Research Findings' <https://www.equalityhumanrights.com/en/managing-pregnancy-and-maternity-workplace/pregnancy-and-maternity-discrimination-research-findings>
- 29 Data taken from: Women's Aid (2014) Why We Need To Save Our Services Women's Aid.
- 30 UK Government Ending Violence Against Women and Girls Strategy 2016-2020 [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/522166/VAWG\\_Strategy\\_FINAL\\_PUBLICATION\\_MASTER\\_vRB.PDF](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/522166/VAWG_Strategy_FINAL_PUBLICATION_MASTER_vRB.PDF)
- 31 Scottish Government COLSA (2016) Equally Safe: Scotland's strategy for preventing and eradicating violence against women and girls <http://www.gov.scot/Publications/2014/06/7483>
- 32 The UK Government signed the Council of Europe Istanbul Convention on Violence Against Women in June 2012. Despite continued calls from CSOs the UK Government has yet to ratify the Convention.
- 33 Women's Aid, 'Nineteen Child Homicides' (2016) <https://www.womensaid.org.uk/launch-of-nineteen-child-homicides-report-child-first-campaign/>.
- 34 The previous Coalition Government (2010-2015) had made a Ministerial statement that it would 'give due consideration to the UNCRC...when making new policy and legislation' Written Ministerial Statement, Publication of the independent review of the Children's Commissioner, CM-7981-WMS. <https://www.google.co.uk/url?sa=t&rct=j&q=&esrc=s&source=web&cd=1&ved=0ahUKewirneedI93OAhXFQBQKHdZ1BW4QFqghMAA&url=http%3A%2F%2Fwww.education.gov.uk%2Fpublications%2FOrderingDownload%2FCM-7981-WMS.doc&usq=AFQjCNFFIdAA9ORqpnIVHtoEKs43acqhlw>
- 35 The Welsh measure requires all Welsh Ministers to have due regard to the CRC and its Optional Protocols when across all Ministerial functions and to promote knowledge and understanding of the CRC.
- 36 The measure places duties on Scottish Ministers to keep under consideration steps which might secure better effect of the CRC. Ministers have a duty to report on implementation of the child rights duty every three years, and to promote awareness and understanding of children's rights.
- 37 Section 58 of the Children Act 2004
- 38 See for example Scottish Government (2013). The 5th UK Government Report to the UN Committee on the Rights of the Child Scottish Government Submission <http://www.gov.scot/Resource/0042/00426765.pdf> where it states the Scottish Government "does not support smacking as a way of disciplining children but does not consider it appropriate to criminalise parents for lightly smacking their children.'
- 39 Section 51 of the Criminal Justice (Scotland) Act 2003 permits the defence of "justifiable assault" on a child for assaults which can include actual bodily harm, but specifically excludes any punishment involving a blow to the head, shaking or the use of an implement. The section also requires courts, in determining whether an assault is justifiable, to have regard to a number of factors: "a) the nature of what was done, the reason for it and the circumstances in which it took place; b) its duration and frequency; c) any effect (whether physical or mental) which it has been shown to have had on the child; d) the child's age and e) the child's personal characteristics (including, without prejudice to the generality of this paragraph, sex and state of health) at the time the thing was done."
- 40 Statement by Carwyn Jones: Moving Wales Forward (18 May 2016) [http://www.welshlabour.wales/statement\\_by\\_carwyn\\_jones\\_moving\\_wales\\_forward](http://www.welshlabour.wales/statement_by_carwyn_jones_moving_wales_forward)
- 41 In England and Wales, the age of criminal responsibility is 10 years old. In Scotland, it is 8 years old, but a child can only be prosecuted at 12 years old.
- 42 UN Committee on the Rights of the Child (CRC), CRC General Comment No. 10 (2007): Children's Rights in Juvenile Justice, 25 April 2007, CRC/C/GC/10, Paragraph 32.
- 43 CRAE, 'UK Implementation of the UNCRC: Civil Society Alternative Report 2015 to the UN Committee' [http://www.crae.org.uk/media/78665/crae\\_civil\\_society\\_report\\_to\\_un\\_web.pdf](http://www.crae.org.uk/media/78665/crae_civil_society_report_to_un_web.pdf) at para 209.
- 44 See Open Letter to the Ministry of Defence from Child Rights Organisations (23 May 2016), coordinated by Child Soldiers International <https://www.child-soldiers.org/shop/open-letter-to-the-ministry-of-defence-from-childrens-rights-organisations>
- 45 National Crime Agency, 'The Nature and Scale of Human Trafficking in 2014' (2015) <http://www.nationalcrimeagency.gov.uk/publications/656-nca-strategic-assessment-the-nature-and-scale-of-human-trafficking-in-2014/file>.

- <sup>46</sup> Home Office, 'Evaluation of Independent Child Trafficking Advocates trial: Final Report (2015) [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/486138/icta-horr86.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/486138/icta-horr86.pdf)
- <sup>47</sup> HM Government, 'Report on the trial of independent child trafficking advocates and next steps' (2015) [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/486693/53019\\_Un-num\\_Report\\_PRINT.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/486693/53019_Un-num_Report_PRINT.pdf)
- <sup>48</sup> Written Statement by James Brokenshire MP, Minister of State for Immigration, 28 January 2016, HCWS497 <http://www.parliament.uk/business/publications/written-questions-answers-statements/written-statement/Commons/2016-01-28/HCWS497>.
- <sup>49</sup> See Endnote 48
- <sup>50</sup> See for example: Children's Commissioner for England (2015) Skype Families: The effects on children of being separated from a mum or dad because of recent Immigration Rules
- <sup>51</sup> House of Commons Education Committee (2015) Life lessons: PSHE and SRE in schools: Fifth Report of Session 2014–15 Report, together with formal minutes relating to the report.
- <sup>52</sup> United Nations General Assembly, 'Report of the United Nations Special Rapporteur on the Right to Education' (2010) [http://www.right-to-education.org/sites/right-to-education.org/files/resource-attachments/UNSR\\_Sexual\\_Education\\_2010.pdf](http://www.right-to-education.org/sites/right-to-education.org/files/resource-attachments/UNSR_Sexual_Education_2010.pdf).
- <sup>53</sup> Information taken from Anglia Ruskin, 'Improving the education outcomes for Gypsy, Traveller and Roma pupils' (2015) <http://www.travellermovement.org.uk/wp-content/uploads/2015/04/Gypsy-Traveller-Roma-Education-Briefing-2015.pdf> and evidence provided by The Traveller Movement.
- <sup>54</sup> Evidence provided to us from the Howard League for Penal Reform who are also submitting their own report to this process.
- <sup>55</sup> Howard League (2016) The Carlile Inquiry 10 years on: the use of restraint, solitary confinement and strip-searching on children.
- <sup>56</sup> Medway Improvement Board (2016) Final report of the Board's advice to the Secretary of State for Justice [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/523167/medway-report.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/523167/medway-report.pdf).
- <sup>57</sup> Joint Committee on Human Rights, Welfare Reform Bill <http://www.publications.parliament.uk/pa/jt201012/jtselect/jtrights/233/23306.htm> at 22
- <sup>58</sup> For a more detailed consideration of the impact of welfare reform, see Just Fair's publications: <http://www.just-fair.co.uk/#!submission-to-the-cescr-parallel-report/yhcgi>.
- <sup>59</sup> Department for Work and Pensions Evaluation of Removal of the Spare Room Subsidy (2013) at 69 – 72.
- <sup>60</sup> For example Susan Rutherford and others v Secretary of State for Work & Pensions and A v Secretary of State for Work & Pensions [2016] EWCA CIV 29
- <sup>61</sup> Shelter, DHP (Dysfunctional Housing Payments), (2016) <http://blog.shelter.org.uk/2016/04/dhp-dysfunctional-housing-payments>.
- <sup>62</sup> The cap is £500 per week for families with children and £350 for single unemployed claimants
- <sup>63</sup> See generally for more detail: Just Fair, Updated submission to the UN Committee on Economic, Social and Cultural Rights in advance of the public examination of the UK's implementation of ICESCR (2016)
- <sup>64</sup> R (on the application of SG and others (previously JS and others) v Secretary of State for Work and Pensions [2015] UKSC 16.
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- <sup>103</sup> Government Response to Stephen Shaw's Review into the Welfare in Detention of Vulnerable Persons: [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/492227/gov\\_paper\\_2.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/492227/gov_paper_2.pdf)
- <sup>104</sup> Potential positive measures include: a 72 hour time limit on the detention of pregnant women; automatic bail hearings for those detained for four months although this excludes foreign national offenders (Immigration Act 2016); and restrictions on child detention and pre-departure accommodation for families (Immigration Act 2014).
- <sup>105</sup> Legal Aid, Sentencing and Punishment of Offenders Act 2012
- <sup>106</sup> Immigration Act 2014
- <sup>107</sup> See Endnote 106
- <sup>108</sup> Immigration Act 2016
- <sup>109</sup> See for example Asylum Aid Briefing Paper: Double standards facing women seeking asylum in Europe (January 2016)
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- <sup>114</sup> Harris (2015) Changing Prisons, Saving Lives: Report of the Independent Review into Self-inflicted Deaths in Custody of 18-24 year olds.
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- <sup>119</sup> Under the Criminal Justice and Courts Act (CJCA) 2015).
- <sup>120</sup> Submission from the Law Society of Scotland which notes that the "2016-17 budget allocation for the legal aid fund has been set at £126.1 million, the lowest it has been for well over a decade. This is a reduction from the 2015-16 budget of over 7% (from £136.1 million to £126.1 million)."
- <sup>121</sup> For example, evidence submitted to us from the Law Society of England and Wales which states "Those for whom legal aid no longer exists, or has been severely curtailed includes tenants whose entitlement to early advice on rent areas has been abolished and for whom eligibility for legal aid for disrepair has been reduced, employees who are no longer entitled to legal advice for employment disputes, people affected by family breakup whose entitlement to legal aid is now largely limited to those who can prove they have been victims of domestic violence, refugees who are no longer entitled to legal advice on family reunion applications and welfare benefits claimants whose legal aid entitlement is limited to the small number of appeals to the Upper Tribunal on a point of law. These groups often include the most disadvantaged and vulnerable people in society who have effectively been deprived of their ability to protect their legal rights."
- <sup>122</sup> For example, evidence requirements which prevented domestic violence survivors from getting legal aid for family cases are unlawful R (Rights of Women) v Secretary of State for Justice [2016] EWCA Civ 91

- 123 House of Commons Justice Committee Courts and tribunals fees Second Report of Session 2016–17, which notes that the employment tribunal regime of fees ‘has had a significant adverse impact on access to justice for meritorious claims’ <https://www.parliament.uk/business/committees/committees-a-z/commons-select/justice-committee/inquiries/parliament-2015/courts-and-tribunals-fees-and-charges/>
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