

# **Scottish Parliament Social Justice and Social Security Committee**

## **Social Justice and Social Security Pre-Budget Scrutiny 2024-25**

### **Written submission by the Scottish Human Rights Commission, 12 September 2023**

#### **1. Introduction**

The Commission welcomes the opportunity to provide this written briefing in advance of the Committee's oral evidence session on pre-budget scrutiny on September 21<sup>st</sup>.

Previous submissions and publications by the Commission provide further detail on a range of areas relevant to this evidence and we suggest that these should be considered alongside this submission<sup>1</sup>.

In responding to the Committee's aim for this year's pre-budget scrutiny, the Commission's written briefing focuses on furthering the Committee's understanding of how to practically take a rights-based approach when considering budget decisions and priorities when fulfilling its scrutiny role. The briefing concludes with suggested recommendations on lines of questioning for the Committee regarding budgetary commitments relevant to its remit for 2024-25. Annex A thereafter provides an overview of the international human rights standards and UN Treaty Body recommendations relevant to the work of the Committee.

#### **2. Executive Summary**

- The Commission wishes to highlight the need for Scotland's domestic and international legal obligations to transparently influence how key budgetary decisions are taken.
- The Commission recommends that the Social Justice and Social Security Committee should apply a human rights based approach to its annual scrutiny of the Scottish Government's budget.
- This is outlined in Section 3 below, but in brief, focuses on identifying the relevant international Human Rights Standards; relevant Treaty Body recommendations on the position of Scotland in respect of these obligations; and finally assessing the resource required to deliver the necessary change to achieve improved outcomes for people.
- An overview of the relevant Treaty Body recommendations is provided for Committee members in Annex A to assist in this process.
- The evidence available to the Commission suggests that these considerations are not demonstrably built into the current budget processes, indicating that duty bearers are not looking at the budget from a human rights perspective.

- It is at the pre-budget stage where the decision-making powers exist. Once the key fundamentals of the budget are in place, it is incredibly difficult to change.
- The current audit accountability system does not consider the whole decision-making agenda and process that led government to reach its decisions over allocation and spend. Nor is the effectiveness of those decisions taken into account.
- There is likely to be merit in examining our whole public finance auditing system, to support a system that examines the budget process as a whole year-long process.
- The Commission has previously highlighted to the Committee that it has been 25 years since the Scottish budget process was developed. There is an opportunity ahead via the Scottish Government's proposed Human Rights Bill to reconsider this from a HRBA perspective.
- Whilst the Commission's work to respond to the Scottish Government's consultation on the Human Rights Bill is ongoing, it is at this stage unclear as to the government's commitment to delivering a meaningful connection between rights realisation and budgetary decision-making via that route.
- The Commission looks forward to discussing any questions the Committee may have about the content of this submission at the evidence session on September 21st.

### **3. Human Rights Based Approach to Budgeting**

The decisions which duty bearers take in relation to how public funding is prioritised is one of the most tangible routes of the promotion of human rights which a state can take.

In our previous evidence to this and other Committees and through our What, Why, How? Briefing series<sup>2</sup>, the Commission has sought to introduce the value behind human rights budgeting. Here we start from the premise that a human rights based approach to budgeting means collecting and distributing resources in a way that puts people first. It therefore follows that the Commission considers that the Social Justice and Social Security Committee should apply a human rights based approach to its annual scrutiny of the Scottish Government's budget.

This approach involves thinking through how people's rights are impacted by the way that money is raised, allocated, and spent. Specifically, budget decisions should reflect human rights standards and the process of formulating, approving, executing, and auditing the budget should reflect and embed human rights principles.

The Commission notes the recent and ongoing developments within government with regard to the principles of fiscal transparency and improving participation within the budget, through the project work of the Scottish Exchequer and the work of the Open Government Action Plan. The route to better accountability of fiscal decision making requires improvements in both. It is equally encouraging to see increased

reference and commitment from government and public bodies to taking a HRBA, making reference to the PANEL principles: Participation, Accountability, Non-discrimination, Empowerment and Legality.

However, simply embedding these principles within the existing budget process (as is proposed in the forthcoming Human Rights Bill), does not represent the full scale of change required to properly adopt a rights-based approach to budgeting. The Commission wishes to highlight the need for Scotland's domestic and international legal obligations to transparently influence how key budgetary decisions are taken. Whilst the Commission's work to respond to the Scottish Government's consultation on the Human Rights Bill is ongoing, it is at this stage unclear as to the government's commitment to delivering a meaningful connection between rights realisation and budgetary decision-making via that route.

In order to do this, the process of budgeting has to connect meaningfully to the human rights standards and the content of the rights – the 'L' in Panel (Legality). Within the PANEL approach, this principle is often over-looked despite providing the structural framework from which the rest of the approach should derive. Legality is the step which requires us to identify the outcomes we are seeking to achieve in Scotland alongside the commitments that have already been made in international treaties and domestic legislation, including those that the new legislation seeks to bring into Scots law, and ensure our collective use of resources are aligned to these aims and requirements.

The next section provides an overview for the Committee on the process through which it can approach this task.

#### **4. Approaching the 'L' in Panel**

Understanding the 'Legality' in relation to international human rights standards, in basic terms, can be conceptualised within a three-step process.

Step 1: There is the starting point of looking at what the Conventions/Treaties say that a State should be delivering based on their existing obligations. Scotland, as a devolved nation in the UK, has a range of international legal obligations. Assessing the breadth of and understanding the meaning and purpose of these obligations represents a significant first step as it requires an understanding of how they must be drawn down into Scotland's domestic context. This should not only shape the construction and passing of law in Scotland, but deliver processes and outcomes designed for rights realisation. An overview of this is provided for Committee members in Annex A.

Step 2: The next step would be to explore any areas where Treaty Bodies, comprised of expert individuals from around the world tasked with providing guiding materials to States on respecting, protecting, and fulfilling human rights, have identified that a State is not currently delivering on. These are provided via UN Treaty Body Concluding Observations & Recommendations. For example, the

Committee on the Rights of the Child has recently provided a new [Concluding Observation on the UK](#) where it identifies specific issues with regard to Scotland's laws and practice and children's rights.

An overview of the relevant Treaty Body recommendations is provided for Committee members in Annex A.

This analysis should inevitably lead to identifying where improvements are required and can be made either immediately or progressively over time.

In short, step 2 requires demonstrating transparently how international mechanisms, such as international treaty monitoring and reporting, have impacted and influenced future budgetary decision-making. Adopting this step would signal a real and meaningful change in Scotland.

Step 3: Finally, consideration needs to be given to what resources are required to deliver on those commitments before finally agreeing how the necessary resources can be generated. Essentially, an assessment of priority need is required before an allocation of resource can accurately be made. This information should be shared transparently to enable active participation and deliberation on how best to budget to meet Scotland's priorities and outcomes.

The three-step process is a simplified breakdown but represents an adoptable approach for how government can start to formulate a rights-based analysis of resource generation, allocation and spend to inform budgetary decisions.

The Scottish Government is already required to take part in international reporting mechanisms, for example, presenting evidence to the UN committees and thus engage with their concluding observations and recommendations.

Parliamentary Committees can support this scrutiny by using these international and domestic legal standards as a basis for their scrutiny. For example, the Committee could be exploring the priorities and expertise of their own work areas, ascertain the relevant standards / rights and how they relate to existing statutory and international obligations, and design their scrutiny and questioning of resource allocation based upon these standards. They should also explore relevant Concluding Observations<sup>3</sup> to support an implementation/outcome gap analysis and a better understanding of where resources should be targeted.

The appended document sets out some of the key human rights framework obligations relevant to the work of this Committee. It also highlights current concerns and recommendations from the various Treaty Body Committees related to:

- an adequate standard of living (including addressing poverty and homelessness)
- social security in Scotland
- tackling violence against women and girls and domestic violence

- access to justice (including the provision of advice and representation);
- supporting/enabling Scotland's third sector

Analysis of these recommendations would provide an evidence-based approach to the Committee's questions for government on the Scottish Government's budget proposal for 2024-25. This evidence would also enable the Committee to challenge government on those results and outcomes when compared against the Scottish Government's targets and goals.

#### **4.1. Worked Example: Child Poverty**

To exemplify this, we offer a worked example on a particular budget issue that Committee members could use to think about how to start assessing whether the budget is meeting its principles and its aims from a human rights perspective.

Poverty is one of the biggest drivers of children's rights violations within Scotland (and the rest of the world) and often provides the clearest signal that violations, or potential violations, of a whole swathe of UNCRC rights are taking place. From children's right to an adequate standard of living, to their right to play and access to culture, where a child is living in poverty, accessing, and enforcing their rights is near impossible. To put it more bluntly, child poverty is directly incompatible with children's international human rights.

Drawing this down into our domestic context, in relation to child poverty in Scotland, the government has set statutory duties to reduce child poverty as follows:

- Fewer than 18% of children living in families in relative poverty in 2023-24, reducing to fewer than 10% by 2030.
- Fewer than 14% of children living in families in absolute poverty in 2023-24, reducing to fewer than 5% by 2030.
- Fewer than 8% of children living in families living in combined low income and material deprivation in 2023-24, reducing to fewer than 5% by 2030.
- Fewer than 8% of children living in families in persistent poverty in 2023-24, reducing to fewer than 5% by 2030.

Available [evidence](#) indicates that the Scottish Government is about to miss its first interim targets. These domestic duties must begin to drive how the effective collection and distribution of resources is approached.

In both the previous and most recent review of the Convention on the Rights of the Child (CRC), the Committee has raised the significant levels of child poverty within all areas of the UK. In 2023, as part of its periodic consideration of the implementation of the CRC in the UK, the Committee "noted with deep concern, the large number of children living in poverty, food insecurity and homelessness and recalling previous recommendations ([CRC/C/GBR/CO/5](#)) requested that children in disadvantaged situations have the ability to access a decent standard of living".

This concern should form the focus on the Committee's questions to government:

- What are the Scottish Government doing within the budget process to consider their legal duty to reducing child poverty?
- What are the Scottish Government going to fundamentally change about the way that they are currently budgeting to tackle child poverty, to demonstrate that they will have impact on that statutory duty?
- What evidence can be produced to demonstrate the active impact of these obligations on budgetary decision-making?

A response which focuses on commitments to update an action plan, amend certain policies, or task a further policy team to develop new policies would not be acceptable.

Further scrutiny of Government would be legitimate in that case:

- What are you doing structurally within the government and the way that you are generating, allocating and spending resource, to impact upon that fact that you are missing a statutory duty?
- Why is the target likely to be missed?
- What within the budget directly and measurably impacts upon the target?
- What actions within the budget can be taken to deliver an improved outcome?

It is clear that some of the social security measures, which if amended could have influence on child poverty, are not within the gift of the Scottish Government. Whilst the limits of devolution are recognised, there are many elements of devolved competence which have a direct impact on child poverty rates and the immediate alleviation of the impact of this on children's rights, including housing, education, adult education, Fair Work, transport, free school meals. These should therefore be the focus of budget scrutiny of the Scottish Government on this issue. The Committee may wish to contact the UK Government on elements of reserved policy which have an impact on child poverty in Scotland to establish further context.

The Scottish Government has made these statutory commitments. It is therefore a requirement of Government to allocate within its available resources and/or give consideration as to how those resources can be increased, through for example changes toward progressive taxation.

In respect of Committee scrutiny of the decisions taken by Government, transparency around the circumstances of a decision is important. That is where there is a need to understand the potential impact of decisions before they are made. If changes are required so that more resource goes into child poverty to meet those statutory targets, consideration must also be given to where that resource will come from, and what impact that will have on other groups of rights holders. A key question is also what are the equality and rights impacts of that decision?

An examination of UN Treaty Bodies' Concluding Observations clearly demonstrates the extent to which this analytical approach is being recommended. It is a part of the approach taken by the UN to treaty monitoring, and it is a part of the international framework Scotland is part of, and which the Scottish Government has stated that it wishes to be world-leading on.

This analytical approach provides the evidence-base to inform rights-based budgetary decisions, and scrutiny of those decisions. It also grounds the focus on the importance of the aim of human rights budgeting, which is that the budget decisions taken at that structural level within Scottish Government have massive implications for meeting specific targets and outcomes and Scottish Government priorities, as set out in the National Performance Framework. This remains the key part of disconnect within the current budget process.

The evidence available to the Commission suggests that these considerations are not demonstrably built into the current budget processes, indicating that that duty bearers are not looking at the budget from a human rights perspective.

## **5. Transparency of fiscal decisions**

A Human Rights Based Approach (HRBA) supports the effective and efficient use of resources. The impact of the expenditures must be such as to actually help realise rights. In addition, if a government has not spent all allocated funds as intended – or has done so in a way that is inefficient or wasteful - then it has not made full use of maximum available funds.

Any process of ensuring efficiency and effectiveness must ensure that the Government is still able to respect, protect, and fulfil people's rights. Commitments within the International Covenant on Economic, Social and Cultural Rights include the necessity to prioritise those rights during times of economic restraint<sup>4</sup>. Taking a HRBA to the budget therefore requires undertaking a budget analysis of what is being allocated and spent and the degree to which that spend has been effective.

Assessing the effectiveness of spend in Scotland is a role well served by the Audit Commission and Audit Scotland. There are a number of accountability mechanisms built into the effectiveness of spend. However, this arguably is only considering the final part of the equation. The current audit accountability system does not consider the whole decision-making agenda and process that led government to reach its decisions over allocation and spend. Nor is the effectiveness of those decisions taken into account.

This is where there is likely to be merit in examining our whole public finance auditing system, to support a system that examines the budget process as a whole year-long process. The current system is good at assessing whether the government has indeed spent the money as intended and where there is overspend and underspend. From a HRBA perspective, where systems need to move to with regard to transparency, accountability, participation, is not just looking at that end point, but

rather exploring how that end point was reached. This is the element that the Commission has found difficult to assess in its own scrutiny of budget processes.

Through a HRBA, budget scrutiny should involve evidence on how decisions were made in terms of why money is being spent on X, Y and Z and not A, B and C. It must be possible to be able to scrutinise the budget as a whole, not just at the end point once decisions have been made are more difficult to impact / change.

The lack of current transparency around how budget allocation figures have been decided upon provides another area of challenge. Committee members will be aware that allocations are frequently presented as rounded figures without explanation as to how those figures were reached. E.g., Policy X will receive £50m without access to the rationale or analysis to show how that figure was reached. Committees should use their evidence sessions to challenge government to identify how/why they believe such allocations are realistically going to cost to meet the outcome.

Fundamentally that is the key message from the Commission's work over the last five years.

- Are we connecting the generation, allocation and spend of money to the outcomes that we actually want to meet?
- Where can we demonstrate in the taxation system how that links to achieve X goal e.g., reducing child poverty?

These are the types of questions that we recommend that the committee should be asking of government in its scrutiny of the budget.

## **6. A move away from retrospective analysis**

It is at the pre-budget stage where the decision-making powers exist. Once the key fundamentals of the budget are in place, it is incredibly difficult to change.

At present, the Committees of the Scottish Parliament invite the Commission to provide advice on applying the HRBA principles to the budget as has been presented – that is, in retrospect. The Commission encourages the Committee in its scrutiny to explore further how a HRBA has informed the budget setting process. We observe that whilst human rights are often referred to in the policy narrative, there is often no evidence as to how its considerations have informed the budget position – either to change priorities, or to confirm that the identified priority spend will have a positive human rights impact. What is desired, is for the process to start from the human rights considerations and for the budget process to flow from this analysis.

The Commission has previously highlighted to the Committee that it has been 25 years since the Scottish budget process was developed. There is an opportunity ahead via the Scottish Government's proposed Human Rights Bill to reconsider this from a HRBA perspective.

However, notably, the current consultation on the Scottish Government's proposed Human Rights Bill contains a commitment to embed human rights principles into the existing process, rather than a commitment to adopt the HRBA to the development of a new budget setting process, which factors in the approach outlined above, and ensuring that these principles of transparency, accountability and participation influence new budgetary decision making.

This is unlikely to lead to the process of budgeting from a rights perspective that is required to bring about the change that is needed.

At the moment, the Equality Fairer Scotland Budget Statement (EFSBS) presents an analysis of potential equalities impact of decisions that have already been taken, with a basic link to relevant human rights. It would be helpful for the Committee to explore how this approach may be extended further in respect of human rights. For the EFSBS, analysis that provides grounded connections to human rights would explore the content of relevant rights, give consideration to outstanding recommendations, and identify areas in need of improvement that are relevant to each portfolio area and then consider what that means for the budget. It would most usefully accompany pre-budget scrutiny to support the decision-making process. Once the budget is published, a follow-up publication would review the impact of the decisions that were taken. Consideration can then be given at the start of the next budget cycle as to what impact that budget had, and what should be done differently the next year.

## **7. Considerations for the SJSS Committee**

Many of the Committees at the pre-budget stage are asking related questions with relevance to their portfolio areas. However, the questions being asked risk leading to the same answers that have already been received and yet the process continues as before. To change the answers, the Commission recommends that the questions need to change.

A way for the Committee to do this is to approach the government, having explored the recommendations from treaty monitoring as outlined in the Appendix below, as well as existing legal duties (domestic duties and international obligations), and then ask questions about the resourcing of those policies and the decision-making process that led to those decisions.

Transparency around Human Rights Based Approach: At the moment, there is no method within the Scottish Government through which to evidence how human rights are taken account in the budget process. It would not be unreasonable to suggest that by 2027 there should be such a process, providing four years for development and trialling. The status quo of focusing solely on the principles of participation, transparency and accountability is not going to lead to better decision making in relation to budget allocation on how to improve adequate standard of living or building people up from child poverty. For that to happen, we need to also look at how to achieve those rights and what resources are necessary to achieve the desired outcomes and how that money will be raised, allocated, and spent.

Improving transparency is important and in and of itself is a public good, but it will not deliver rights-based outcomes and improve the lived experience of many people in Scotland. What it will do is make it easier to see and scrutinise what is happening and possibly why allocated resources are not having the desired impact.

Legality: The rhetoric of embedding principles and implementing PANEL in policy and budget narrative are increasingly presented and that is a step forward. However, this does not in itself evidence that a HRBA has actually been taken. Where further work is required in using the PANEL principles to take a HRBA is by now focusing more on the 'L': Legality. In this context, there is a need to understand what are our legal obligations are, what we are committed to doing and how the budget is going to do that?

It would be reasonable for the Committee to consider whether it thinks that embedding human rights principles in the current budget process is satisfactory, or would you prefer to see the principles of human rights support the development in a new budgetary process?

Outcomes: In terms of realisation of the National Performance Framework, as Committee members, do you currently feel that you can make the linkages between government commitments, the human rights legal framework, and the budget?

If not, the Commission recommends that the Committee explores these issues with government as part of its pre-budget scrutiny process – asking for example:

- Before continuing with existing spending priorities, or introducing new ones, what can the government provide by way of information about their decision making process?
- How did they come up with the action plan that they have?
- What decisions sit behind the resources that they have committed so far?
- Can you evidence the relevant human rights framework which informed this?
- Why those levels of resources?
- Why not more? Why not less?

A budgetary decision taken at the very start of a fiscal year might lead to a missed outcome at the end of that year. At present it is not possible within the existing processes to begin to link them. The Commission suggests that scrutiny of this at Committee level would be helpful, with a challenge to government to develop an ongoing process within the budget that allows a tracking of certain decisions and whether they have met their intended goals would be a useful line of questioning. This would require indicators and monitoring of budgeting decisions, which do not currently exist. The Commission has previously written at length in a number of contexts including how to better use the NPF, through the lens of human rights based indicators - in particular how these could be used to better link structure (law & policy), process (action & resourcing), and outcome (results).

The Commission looks forward to discussing any questions the Committee may have about the content of this submission at the evidence session on September 21st.

# **Appendix 1: Human Rights Framework and UN Treaty Body Conclusions and Recommendations**

## **1. Human Rights Framework**

Among the internationally recognised rights engaged in relation to the work of the Social Justice and Social Security Committee are:

- The right to an adequate standard of living: including adequate food, clothing, and housing, and to the continuous improvement of living conditions (UDHR article 25; ICESCR article 11; ESC Part 1 article 16; particularly of women: CEDAW article 13, and ESC Part 1 article 17; children: CRC article 27; ethnic minorities: ICERD article 5; and people with disabilities CRPD article 28.
- The right to social security: UDHR article 25; ICESCR article 9; ESC Part 1 articles 12, 13, 14 & 17, and Part 2 article 12; particularly of women: CEDAW article 12; and children: CRC articles 19, 26 & 27.
- The best interests of the child to be a primary consideration in all actions concerning a child: CRC article 3.
- Protection of children from all forms of violence, injury or abuse, neglect, maltreatment or exploitation, sexual abuse: CRC articles 19 & 24, 34, 35, 37.
- Elimination of violence against women and girls: UDHR articles 3 & 5; ICCPR article 7; CEDAW articles 1-6; CRC articles 24 & 35; Istanbul Convention on preventing and combating violence against women and domestic violence; CRPD article 16.
- The right to an effective remedy, including access to justice and reparation (satisfaction, restitution, rehabilitation, compensation and guarantees of non-repetition): ECHR Article 13.

## **2. Recent relevant Concluding Observations and Recommendations related to HRBA and**

### **Budgeting**

In order to enhance the ability of public, private, and voluntary bodies to put human rights in practice is key to the delivery of all human rights, among other relevant recommendations, international human rights bodies have made the following calls of the UK:

- Prioritisation and policy making: Introduce human rights based impact assessment and budget analysis (CERD 2016; CESCR 2016; ICESCR 2016; CEDAW 2019; UPR 2022; CRC 2016 & 2023).
- Human rights based approach: Adoption of a human rights based approach to (aspects of) public service (CESCR 2016; CRPD 2017; UPR 2017; CRC 2016 & 2023).
- Rights based allocation of resources: Strengthen and improve services through adequate allocation of resources (CERD 2016; CESCR 2016;

ICESCR 2016; CRPD 2017; SR on extreme poverty 2019; CEDAW 2019; UPR 2022; CRC 2016 & 2023)

- Maximisation of available resources: ensure fiscal policy enables the collection of sufficient resources to address persistent social inequality and to achieve the full realization of economic, social, and cultural rights for the benefit of disadvantaged and marginalized individuals and groups (ICESCR 2016; CRC 2016 & 2023).
- Rights based approach to budgeting: In 2023 the CRC Committee recommended the incorporation of a child rights-based approach into the budgeting process in all jurisdictions of the State party. This should include:
  - Implementing a tracking system for the allocation, use and monitoring of resources for children, with a view to eliminating disparities and ensuring equitability, and assess how investments in all sectors serve the best interests of children;
  - Introduction of budgetary allocations for children in disadvantaged situations and ensuring that children are not affected by austerity measures;
  - Ensuring that, in situations of economic crisis, regressive measures are not taken without meeting the requirements set out in paragraph 31 of the Committee's general comment No. 19 (2016) on public budgeting for the realization of children's rights, including that children participate in the decision-making process relating to such measures; and
  - Ensuring transparent and participatory budgeting in which civil society, the public and children can participate effectively.

### **3. Recent relevant Concluding Observations and Recommendations related to Social Justice and social security**

Among other relevant recent observations and recommendations relevant to the work of the Social Justice and Social Security Committee, international human rights bodies have called on the UK to address the following:

#### **3.1. Adequate Standard of Living**

- The CRC Committee (2023) noted with deep concern the large number of children living in poverty, food insecurity and homelessness and recalling previous recommendations ([CRC/C/GBR/CO/5](#)) requested that children in disadvantaged situations have the ability to access a decent standard of living. The Committee recommended achieving this through developing or strengthen existing policies, with clear targets, measurable indicators and robust monitoring and accountability mechanisms, to end child poverty and ensure that all children have an adequate standard of living, including by increasing social benefits to reflect the rising cost of living (and abolishing the two-child limit and benefit cap for social security benefits).
- The CRC Committee (2023) also noted that these measures to combat poverty must comply with a child rights-based approach and include a particular focus on children in disadvantaged situations, especially children of

single parents, children with disabilities, Roma, gypsy and traveller children and children belonging to other minority groups, asylum-seeking and refugee children, children in large families and children leaving care.

- The CRC Committee (2023) further recommended that the impact of welfare changes on children with disabilities and their families is assessed and increases to social welfare payments are made accordingly to ensure that policies do not have a discriminatory effect on them and that such payments are sufficient to ensure their right to an adequate standard of living.
- The CRC Committee (2023) recommended addressing the root causes of homelessness among children, strengthening measures to phase out temporary and contingency accommodation schemes and significantly increasing the availability of adequate and long-term social housing for families in need, with a view to ensuring that all children have access to affordable, quality housing. In relation to evictions - the best interests of the child must be given primary consideration; any evictions are always subject to adequate alternatives and evictions are not to be targeted at families belonging to minority groups.
- Four recommendations in UPR 2022 made specific mention of the need to improve access to an adequate standard of living for migrants and ethnic groups, including addressing structural barriers to their enjoyment of this right (this was also raised in 2019 by the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance); ensure the right of every child to an adequate standard of living; and to Implement measures to address the situation of persons with disabilities, in particular, their right to an adequate standard of living.
- Two recommendations from UPR in 2022 made reference to the need for concrete measures to ensure the fulfilment of the right to adequate housing for all without discrimination to prevent homelessness;
- One further UPR (2022) recommendation focused on the need to address the impact of rising costs on child poverty targets and on access to affordable, accessible, and culturally appropriate social housing.
- In 2019 the CEDAW Committee raised concern about the disproportionately negative impact of austerity measures on women. It reiterated its previous concern (CEDAW/C/GBR/CO/7, para. 20) that austerity measures have resulted in cuts in funding to organizations that provide social services to women, including those that provide services for women only, as well as budget cuts in the public sector, where more women are employed than men. It noted with concern that reductions in social care services also increased the burden on primary caregivers, who are disproportionately women.
- In 2019 the Special Rapporteur on extreme poverty raised concern about the rise in housing costs disproportionately impacting people on low incomes, and the recent uptick in pensioner poverty is driven by increasing poverty among renters. He also raised concern about real term cuts to Local Authorities net

spending on services and the impact this was having on areas such as preventative.

- The CRPD Committee in 2017 raised a number of concerns with corresponding recommendations regarding the right to an adequate standard of living for people with disabilities. This included the need to reflect the additional costs of living with a disability are reflected in social protection policies and programmes; undertake a cumulative impact assessment, based on disaggregated data, of the recent and forthcoming reforms of the social protection system for persons with disabilities; in collaboration with DPOs - define, implement and monitor measures to tackle retrogression in their standard of living and use the cumulative impact assessment as a basis for policy development;
- The CRPD Committee (2017) also noted that the budget allocation was to be sufficient for local authorities to meet their responsibilities regarding assistance for persons with disabilities.
- In 2016 the ICSECR Committee recommended that the level of support provided to asylum seekers, including through the daily allowance, be increased in order to ensure that they enjoy their economic, social, and cultural rights, in particular the right to an adequate standard of living.
- Reiterating its previous recommendation (see E/C.12/GBR/CO/5, para. 27) the ICESCR Committee (2016) also encouraged the State party to ensure that asylum seekers are not restricted from accessing employment while their claims are being processed.
- ICESCR (2016) also reiterated its concern that the standard of living of Gypsy/Travellers has not substantially improved, with these communities continue to face exclusion and discrimination in areas including housing, struggling to realise their right to adequate and culturally appropriate accommodation. Recalling its general recommendation No. 27 (2000) recommendations from the ICESCR Committee focused on developing and implementing an Action Plan (in conjunction with Gypsy/Travellers) to tackle these issues, ensuring effective oversight and monitoring mechanisms to track progress, and providing adequate human and financial resources to implement the actions.
- The ICESCR Committee (2016) also recalled its previous recommendation (see E/C.12/GBR/CO/5, para. 29) urging progress in addressing the housing deficit by ensuring a sufficient supply of housing, in particular social housing units, especially for the most disadvantaged and marginalized individuals and groups, including middle and low income individuals and households, young people, and persons with disabilities; and take measures to address bad housing, including substandard housing conditions and uninhabitable housing.

### **3.2. Social Security**

- In 2019 the Special Rapporteur on extreme poverty highlight the difficulties people claiming Universal Credit had in gaining digital assistance to make their claim – whereby assistance has been outsourced to public libraries and civil society organizations at the same time library budgets have been severely cut across the country and many claimants rely on organizations and charities that are already inadequately funded and under pressure.
- The CRPD Committee in 2017 requested that the UK government repeal the Personal Independence Payment (Amendment) Regulations of 2017 and ensure that eligibility criteria and assessments to access Personal Independence Payments, Employment Support Allowance and Universal Credit are in line with the human rights model of disability;
- CRPD (2017) also asked for a review of the conditionality and sanction regimes concerning the Employment and Support Allowance, and to tackle the negative consequences on the mental health and situation of persons with disabilities.
- In 2016 the ICESCR Committee made a series of recommendations to the UK Government regarding reviewing the entitlement conditions of and reversing the cuts to social security benefits introduced by the Welfare Reform Act 2012 and the Welfare Reform and Work Act 2016. They also recommended restoring the link between the rates of State benefits and the costs of living and guarantee that all social benefits provide a level of benefit sufficient to ensure an adequate standard of living, including access to health care, adequate housing, and food. A review of the use of sanctions in relation to social security benefits was also requested.
- Whilst the above recommendations are within the gift of the UK Government, the Committee also requested that the next State report provides disaggregated data on the impact of the reforms to social security on women, children, persons with disabilities, low-income families, and families with two or more children.

### **3.3. Violence against Women and Girls**

- Five recommendations were made within UPR 2022 on the elimination of violence against women and girls (focused on prevention, elimination, reporting, legal framework, and women with NRPF).
- Recommendations from CAT 2019 focused on:
  - addressing low prosecution and conviction rates for domestic abuse and sexual violence; thorough investigation, redress, and adequate compensation;

- o revising police practices that deter migrant women from seeking protection where they have been subjected to or are at risk of genderbased violence;
  - o providing mandatory training on the prosecution of gender-based violence to all justice officials and law enforcement personnel and continue awareness-raising campaigns on all forms of violence against women;
  - o reviewing the availability of refuges, specialist domestic abuse services and rape support centres throughout the State party to ensure that the provision of increased funding results in all women who are victims of gender-based violence in the State party having access to the necessary support and services;
  - o compiling statistical data, disaggregated by the age and ethnicity or nationality of the victim, on the number of complaints, investigations, prosecutions, convictions, and sentences recorded in cases of genderbased violence, as well as on the measures adopted to ensure that victims have access to effective remedies and reparation – to provide to the Committee at its next review; and
  - o a review of the effectiveness of preventive and protection measures in place for children at risk of female genital mutilation and forced marriage in the State party.
- With reference to its general recommendation No. 35 (2017) on gender-based violence against women, updating general recommendation No. 19, and recalling its previous recommendation to the State party, CEDAW Committee in 2019 recommended:
  - o ratification of the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence; o adoption of legislative and comprehensive policy measures to protect women from all forms of gender-based violence;
  - o ensuring that asylum-seeking and migrant women and women with insecure immigration status are able to seek effective protection and support services without fear of having their immigration status reported to authorities;
  - o ensuring that laws and policies effectively protect women with disabilities from all forms of gender-based violence, in particular violence perpetrated by their caregivers;
  - o ensuring that the policy of commissioning services does not undermine the provision of specialized services for women who are victims of gender-based violence.
- The CEDAW committee (2019) also recommended ensuring the full implementation of its legislation on female genital mutilation and to take further measures to effectively prosecute perpetrators of this offence, and that the State party should step up its efforts to raise awareness that female genital mutilation is a form of child abuse and gender-based violence against women and girls.

- Both the Committees of CRC (2023) and CAT (2019) recommended action to protect children from all forms of violence. This included the following recommendations from the recent CRC review:
  - ensure that child protection systems take a child rights-based approach to preventing and addressing cases of abuse and neglect, including psychological violence, that social services and other mechanisms for identifying and supporting children at risk of violence and child victims of violence are adequately resourced and that child victims are fully recognized as victims and have access to community-based trauma care and child-sensitive support services;
  - promptly and effectively investigate and intervene in all cases of violence against children, including domestic violence and the sexual exploitation and abuse of children in and outside the home, in the digital environment, in religious and educational institutions and in alternative care settings, and ensure expert support to child victims and that perpetrators are brought to justice;
  - strengthen measures aimed at tackling violence against children, including by implementing the recommendations of the Scottish Child Abuse Inquiry and other relevant inquiries and investigations conducted by independent bodies;
  - develop measures aimed at preventing violence against children in alternative care, children with disabilities, asylum-seeking, refugee and migrant children and children belonging to minority groups;
  - ensure that all children who are victims or witnesses of violence have prompt access to child-sensitive, multisectoral and comprehensive interventions, services, and support, including forensic interviews and psychological therapy, with the aim of preventing the secondary victimization of those children, and allocate sufficient resources for the implementation and expansion of the barnahus and similar models, such as The Lighthouse in London;
  - ensure a child rights and trauma care-based approach in the provision of support services for victims, including the Bairns' Hoose standards in Scotland, and that such services and support are also available for and address the specific needs of all victims of violence;
  - ensure that all child victims of violence, including sexual abuse, are allowed, as child witnesses, to provide video-recorded evidence for testimony and cross-examination during the pretrial stage in judicial procedures as a default process, and that they have access to appropriate therapy without delay;
  - strengthen efforts to train professionals working with and for children, including social workers, law enforcement authorities and the judiciary, to identify and effectively respond to cases of violence, including sexual exploitation.

### **3.4. Social Justice**

- In the area of poverty-related policy, Special Rapporteur on extreme poverty and human rights 2019 noted that in the UK evidence suggests that the driving force behind austerity was not economic but rather a commitment to achieving radical social re-engineering – a dramatic restructuring of the relationship between people and the State. He noted that successive Governments have brought revolutionary change in both the system for delivering minimum levels of fairness and social justice to the British people, and especially in the values underpinning it. Key elements of the post-war “Beveridge social contract” are being overturned. In the process, some good outcomes have certainly been achieved, but great misery has been inflicted unnecessarily.

### **3.5. Access to justice**

- The CRC Committee (2023) recalling previous recommendations ([CRC/C/GBR/CO/5](#)) requested the establishment of clear avenues for children to seek justice in cases of discrimination.
- CEDAW 2019 recommended that the State party ensure that women, in particular women in vulnerable situations, such as women with disabilities, “Black, Asian and Minority Ethnic” women, asylum-seeking and refugee women and victims of gender-based violence and of trafficking, have effective access to justice and remedies with adequate legal support and representation, including by ensuring that legal aid and representation is accessible and available and the provision of procedural and age-appropriate accommodations. It also recommends that the State party take effective measures to ensure that women have access to legal aid in areas that affect them the most, such as family, housing, immigration, and welfare benefits law.
- In 2019 ICESCR Committee also expressed concern that the reforms to the legal aid system and the introduction of employment tribunal fees have restricted access to justice in areas such as employment, housing, education, and social welfare benefits (art. 2).
- In 2019 the Special Rapporteur on extreme poverty also raised concerns over access to legal aid exacerbating extreme poverty.
- UPR 2017 raised concern over the accessibility of appropriate legal aid to safeguard access to justice for all, particularly for the most marginalized groups in society.
- The CRPD Committee (2017) recommended that the State party, in line with the Committee ’ s general comment No. 3 (2016) on women and girls with disabilities and targets 5.1, 5.2 and 5.5 of the Sustainable Development Goals, adopt inclusive and targeted measures, including the collection of disaggregated data, to prevent multiple and intersectional discrimination against women and girls with disabilities, particularly those with intellectual and/or psychosocial disabilities, in relation to access to justice and in terms of poverty and violence.

- The CRPD Committee (2017) also recommended that the State establish measures to ensure equal access to justice for people with disabilities, particularly women, children, intersex persons, and elderly persons with disabilities from abuse, ill-treatment, sexual violence, and exploitation.
- In 2016 the CERD Committee raised concern that the reforms to the legal aid system and the introduction of employment tribunal fees have restricted access to justice for individuals belonging to ethnic minorities in areas such as housing and social welfare benefits.

### **3.6. Civil Society**

- The ICESCR Committee (2016) recommended that the State engage with Civil Society in the follow-up to the concluding observations and in the process of consultation at the national level prior to the submission of its next periodic report. ICCPR Committee (2015) made a similar recommendation during its previous review.
- UPR 2017 also recommended that the State take into consideration the opinion of civil society and its role in supporting the decision-making process, particularly with regard to the implementation of recommendations presented to them during the universal periodic review session.
- In 2022 UPR further recommended that the State take further action to ensure a safe environment for civil society, including the removal of legislation potentially restricting the rights of association and peaceful assembly.
- The CRPD Committee strongly encouraged the State party in 2017 to involve and financially support civil society organizations, in particular organizations of persons with disabilities, in the preparation of its periodic report.
- In 2019 the Special Rapporteur on Racism noted that austerity measures had severely undercut small and medium-sized charities, organizations that play a vital role in promoting and protecting racial equality. In almost all of the Special Rapporteur's consultations, civil society and community representatives most commonly cited the devastating impact of austerity and funding cuts as undermining their capacity to advocate for racial equality and fight discrimination.

### **3.7. Data**

- In line with Goal 17 of the Sustainable Development Goals, many committees recommended that there is a significant increase in the availability of high quality, timely and reliable data disaggregated by, among others, income, sex, age, gender, race, ethnic origin, migratory asylum-seeking and refugee status, disability, geographic location and other characteristics relevant in national contexts, including in all general population surveys and censuses (CERD 2016; ICESCR 2016; CRPD 2017; CEDAW 2019; CAT 2019; CRC 2023)
- In 2023, the CRC Committee also recommended ensuring the systematic collection and analysis of data on child protection issues and violence against children to inform the implementation of national strategies on violence and

child sexual abuse, including by: (i) creating a national database for missing children; (ii) collecting data on cases that have been reported, investigated and prosecuted; and (iii) ensuring that 16- and 17-year-old persons are considered as children in the disaggregation of data on sexual exploitation and abuse.

- UPR 2022 recommended taking measures to improve data collection on gender-based violence, including disability disaggregated data when reporting such violence.
- The Special Rapporteur on extreme poverty (2019) recommended that there should be a single, multidimensional measure of poverty; that food security should be systematically measured; an assessment should be made of the cumulative social impact of tax and spending decisions since 2010, especially on vulnerable groups, with a view to identifying what would be required to restore an effective social safety net.
- The CRPD Committee (2017) noted it is concern at the lack of a unified datacollection system and indicators across the State party concerning the situation of persons with disabilities. It notes the limited collection of disaggregated data in surveys and censuses on the general population.
- The CERD Committee (2016) expressed concern that data are neither collected systematically in all fields where racial discrimination exists, nor uniformly across the State party's jurisdiction.
- The ICESCR Committee (2016) requested to see disaggregated data on the impact of the reforms to social security on women, children, persons with disabilities, low-income families, and families with two or more children in its next report.

## Endnotes

<sup>1</sup> See: <https://www.scottishhumanrights.com/projects-and-programmes/human-rights-budget-work/>

<sup>2</sup> See: <https://www.scottishhumanrights.com/projects-and-programmes/human-rights-budget-work/> <sup>3</sup> The UN Index [UNIVERSAL HUMAN RIGHTS INDEX - Human Rights Recommendations \(ohchr.org\)](https://www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-economic-social-and-cultural-rights) provides access to Treaty Body Concluding Observations which can be searched by country and Treaty/Theme/Right etc which support this analysis, and where all Treaty Body references are made. <sup>4</sup> <https://www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-economic-social-and-cultural-rights>