**UN Human Rights Committee (UN HRC): ICCPR Final Recommendations**

**Read full list of UN HRC’s recommendations** [**here**](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CCPR%2FC%2FGBR%2FCO%2F8&Lang=en)

**March 2024**

**Summary**

The UN Human Rights Committee recommendations for the UK highlight significant concerns across many areas of human rights and legislation. Key recommendations include repealing legislation allowing non-consensual treatment and detention, aligning anti-trafficking legislation with international standards, improving conditions for immigration detention, and enhancing access to justice through legal aid reforms. A direct quote from the Committee’s recommendation: “The State party should redouble its efforts to improve access to justice through the provision of adequate free legal aid to all persons without sufficient means”, whilst specifically pointing out inadequacies in Scotland, as well as the wider UK.

Additionally, there are calls to ensure privacy and freedom of expression, amend laws to protect the right to peaceful assembly, and raising the minimum age of criminal responsibility. Scotland-specific concerns are primarily related to access to justice, where there's a notable depletion of legal aid lawyers, and child rights, particularly regarding the minimum age of criminal responsibility and recruitment of children into the armed forces. However, most recommendations do not specify Scotland, indicating a broader UK context for these human rights issues.

**Consolidated Recommendations**

**In summary these covered:**

1. Ensure that conditions of detention comply with international standards.
2. Continue efforts to reduce prison overcrowding and use non-custodial measures.
3. Limit the use of solitary confinement and ensure judicial review.
4. Supervise body search procedures and minimise invasive searches.
5. Increase efforts to prevent self-inflicted deaths and investigate thoroughly.
6. Repeal legislation allowing involuntary detention of persons with disabilities.
7. Provide community-based mental health services and support.
8. Ensure legislation on trafficking aligns with international standards.
9. Provide effective remedies and support for victims of trafficking.
10. Strengthen legislation protecting migrant workers from abuse and exploitation.
11. Repeal provisions discriminating against migrants and asylum-seekers.
12. Establish a statutory time limit on immigration detention.
13. Ensure access to legal aid, especially for essential services.
14. Review legislation on investigatory powers to ensure compliance with human rights.
15. Review legislation imposing restrictions on the right of peaceful assembly.
16. Enact legislation explicitly prohibiting corporal punishment of children and raise the minimum age of criminal responsibility.

It is also important to note that the Committee asked the State Party to “ensure that any legislation that may be adopted in the future to replace or amend the Human Rights Act 1998 is aimed at strengthening the status of international human rights, including the provisions of the Covenant, in the domestic legal order, and provide effective protection of those rights across all jurisdiction”.

Basically, the Committee wants to make sure that any new laws made to change or update the Human Rights Act in the future should make international human rights even stronger in our country. They want these laws to give good protection to people's rights in all parts of the country.

Below is an analysis of topic area, questions asked by the Consortium in our submission, compared against the recommendations given by the Committee. Some of our questions raised to the UN Committee were not picked up, and in this case, it will say “no recommendation”. However, we are impressed with the volume of concerns raised by our submission that have been taken into consideration.

|  |  |
| --- | --- |
| **HRCS Questions** | **UNHRC Recommendation and Simplification** |
| Will the UK Government cease implementation of the Illegal Migration Act 2023 and cease progress of the Safety of Rwanda Bill and instead, reinstate and strengthen the UK asylum system to give sanctuary in the UK to all those who need it? | **Rec:** “The Committee urges the State party to: (a) Swiftly repeal the legislative provisions, including within the Illegal Migration Act 2023, that discriminate against migrants and that seek to limit access to rights for asylum seekers, refugees and migrants in the State party on account of their “illegal entry or presence”, with a view to ensuring its legislation fully complies with the Covenant and relevant international standards”“Withdraw the Safety of Rwanda (Asylum and Immigration) Bill, or repeal the bill if passed, with a view to strictly upholding the principle of non-refoulement in both law and practice.”**Simplification:** The Committee is worried about new laws that treat migrants unfairly and make it harder for people seeking asylum, refugees, and migrants to have equal human rights in the UK. They're especially concerned about the Illegal Migration Act 2023, which stops people who came into the country illegally from asking for asylum if they went through another country where they weren't in danger. They're also unhappy that the UK is trying to send asylum seekers to other countries, like Rwanda, even though the Supreme Court declared it against the law. The Committee asks for the UK to change these laws and follow international rules. |
| Will the Scottish Government commit to introducing a Human Rights Bill that includes enforceable duties on rights, improves access to justice and accountability mechanisms, and start plans for implementation immediately? | No recommendation. |
| Will the UK and Scottish governments review and amend legislation, ensuring so that it aligns with international human rights standards and protects the right to protest?Will the UK and Scottish governments establish robust oversight mechanisms to monitor and evaluate police actions during protests, ensuring accountability and adherence to human rights principles?Will the UK and Scottish governments have open dialogue between authorities and activist groups to address concerns, ensuring that legislative changes do not unduly restrict the right to peaceful assembly? | **Rec:** “In accordance with the Committee’s general comment No. 37 (2020) on the right of peaceful assembly, the State party should review and consider amending its legislation, including the Public Order Act 2023, to ensure that individuals fully enjoy their right of peaceful assembly and to guarantee that any restrictions of that right comply with the strict requirements of article 21 of the Covenant. It should ensure that individuals who exercise their right of peaceful assembly are not prosecuted and punished for exercising their rights, and that those detained are immediately released and provided with adequate compensation. Furthermore, the State party should end the use of facial recognition and other mass surveillance technologies by law enforcement agencies at protests, in order to safeguard privacy, non-discrimination, freedom of expression and association and assembly rights for protesters.”“The Committee is also concerned about the increased use by police forces of facial recognition technology to monitor peaceful gatherings.”**Rec:** “In accordance with the Committee’s general comment No. 37 (2020) on the right of peaceful assembly, the State party should review and consider amending its legislation, including the Public Order Act 2023, to ensure that individuals fully enjoy their right of peaceful assembly and to guarantee that any restrictions of that right comply with the strict requirements of article 21 of the Covenant. It should ensure that individuals who exercise their right of peaceful assembly are not prosecuted and punished for exercising their rights, and that those detained are immediately released and provided with adequate compensation. Furthermore, the State party should end the use of facial recognition and other mass surveillance technologies by law enforcement agencies at protests, in order to safeguard privacy, non-discrimination, freedom of expression and association and assembly rights for protesters.”**Simplification:** The Committee is urging governments to reconsider their protest regulations, such as the Public Order Act 2023, to ensure that individuals can protest peacefully without facing repercussions. They emphasise the importance of adhering to strict Covenant guidelines regarding protests. If someone is arrested during a protest, they should be promptly released and compensated fairly for any inconvenience.Additionally, the Committee calls for an end to the use of facial recognition and other surveillance technologies by authorities at protests. This measure aims to safeguard people's privacy and their rights to assemble and express themselves freely. |
| What will the Scottish Government do to publicise reporting mechanisms more effectively to encourage victims to come forward, and to enhance awareness of what constitutes hate crimes among educational establishments, law enforcement, and support organisations? | **Rec:** “The State party should intensify its efforts to combat hate crimes and, in particular encourage the reporting of hate crimes and provide effective training to law enforcement officials, judges and prosecutors on addressing and investigating hate crimes”.**Simplification:** The Committee is advising the government to work harder to fight hate crimes. They specifically want to see more encouragement for reporting hate crimes and better training for law enforcement, judges, and prosecutors on how to deal with and investigate these crimes. The Committee gave praise to the Scottish Government for their 2023 Hate Crime Strategy. |
| What will the Scottish Government do to prioritise cultural education in schools to foster understanding and appreciation of diverse cultures? | No recommendation. |
| What action is the Scottish Government taking to ensure that hate crimes against Gypsy Travellers are properly recorded, investigated and prosecuted? | **Rec:** “The State party should redouble its efforts to prevent, combat and eradicate all forms of racial and ethnic discrimination, particularly systemic discrimination against Gypsies, Roma and Travellers and people of African descent in the criminal justice system, in the use of stop and search powers and in public services, including by monitoring and assessing legislative and policy measures on racism and non-discrimination, and by ensuring the allocation of sufficient resources for the full implementation of anti-discrimination plans and policies.”**Simplification:** The Committee is urging the government to put more effort into stopping and getting rid of all types of racial and ethnic discrimination. They're especially concerned about discrimination against groups like Gypsies, Roma, Travellers, and people of African descent, especially in the criminal justice system, police use of stop-and-search powers, and public services. They want the government to keep a close eye on laws and policies related to racism and discrimination, and make sure there's enough money and resources to fully put anti-discrimination plans into action. |
| What action is the Scottish Government taking to tackle misogyny as a hate crime issue? | No recommendation. |
| Will the Scottish Government update guidance on DNACPR in Scotland to enhance public awareness and confidence in both DNACPR and Anticipatory Care Planning processes? | No recommendation. |
| Will the Scottish Government implement any recommendations from the ongoing Scottish COVID-19 Inquiry related to DNACPRs? | No recommendation. |
| Will the Scottish Government take immediate action to address preventable deaths for people with learning disabilities? |  |
| Will the Scottish Government do all that it can to pass gender recognition reform and to protect trans rights?Will the UK Government pass legal gender recognition reform to ensure that trans people have the right to reflect their identity on official documents with the same ease as everyone else? | **Rec:** “The State Party shouldtake legislative and other measures to eliminate intrusive requirements for legal gender recognition, including psychiatric diagnosis, and provide for and effectively implement a quick, transparent and accessible procedure for legal gender recognition that is compatible with the provisions of the Covenant.”**Simplification**: The Committee is telling the government to change the laws about legal gender recognition. They want to get rid of any strict requirements, like needing a psychiatric diagnosis, and make the process quick, easy to understand, and accessible to everyone. This means that people should be able to legally change their gender without facing unnecessary obstacles or delays. |
| What action is the Scottish Government taking to reduce deaths in custody and to speed up Fatal Accident Inquiries into deaths in custody? | **Rec:** “The State Party should increase its efforts to prevent self-inflicted deaths, including by suicide, and self-harm in custody and ensure that cases of self-inflicted death, including by suicide, and self-harm are independently and thoroughly investigated.”**Simplification:** The Committee is putting an onus on the government to prevent people within custody from dying from suicide, or self-harm. The Committee also emphasises the importance of making sure that whenever someone does harm themselves or die by suicide while in custody, a thorough investigation is done by an independent party to understand what happened. |
| What is the Scottish Government doing to tackle prison overcrowding and poor prison conditions, including replacing facilities like HMP Barlinnie and adopting a more rehabilitative approach? | **Rec:** “The State party should intensify its efforts to ensure that conditions of detention fully comply with relevant international human rights standards, including the United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules). In particular, the State party should continue its efforts to reduce prison overcrowding, particularly through wider application of non-custodial measures, as provided for in the United Nations Standard Minimum Rules for Non-custodial Measures (the Tokyo Rules), as an alternative to imprisonment, and provide for a community service order as an alternative to imprisonment for the non-payment of fines.”**Simplification:** The Committee is urging the government to improve conditions in prisons so they meet international human rights standards. They want to reduce overcrowding in prisons, which means fewer people in each prison, by using other ways to punish people without sending them to jail. This could include things like community service instead of prison for not paying fines. They also want to see more efforts to prevent people from going to jail in the first place by using different punishments when possible. |
| What is the Scottish Government doing to reduce the use of remand and to improve conditions and support for those on remand? | No recommendation. |
| Will the UK Government introduce a time limit on immigration detention?Will the UK Government prioritise the implementation of alternatives to immigration detention? | **Rec:** “Bearing in mind the Committee’s previous recommendations,[[1]](#footnote-2) the State party should establish a statutory time limit on the duration of immigration detention and ensure that detention is used only as a measure of last resort and for the shortest possible period of time, and increase the use of alternatives to detention, particularly for children, pregnant women and families with children, that are respectful of human rights, including the right to privacy, instead of surveillance-based technological alternatives.”**Simplification:** The Committee is advising the government to set a specific limit on how long someone can be held in immigration detention. They want detention to be a last resort and used for the shortest time possible. They also suggest using other ways to keep track of people who are waiting for their immigration status to be decided, especially for kids, pregnant women, and families. These alternatives should respect people's rights and privacy, without relying too much on surveillance technology. |
| Will the Scottish Government significantly improve access to justice in their upcoming human rights law reform, and regularly report on their progress in improving access to justice? | No recommendation. |
| Will the Scottish Government prioritise reform of Legal Aid, with a consultation published on necessary legislative change in 2024? | **Rec:** “The State party should redouble its efforts to improve access to justice through the provision of adequate free legal aid to all persons without sufficient means, especially in cases where the interests of justice so require, in accordance with article 14 (3) (d) of the Covenant, including by increasing the allocation of human and financial resources.”**Simplification:** The Committee is saying the government needs to work harder to make sure everyone can get fair access to legal help, even if they don't have enough money. This means providing free legal assistance to those who can't afford it, especially in cases where it's really important for justice to be served. To do this, they suggest giving more money and people to support legal aid services. |
| Will the Scottish Government take urgent action to review the system of FAIs so that it as effective as possible and speed up the process of Fatal Accident Inquiries?  | No recommendation. |
| Will the Scottish Government raise the MACR[[2]](#footnote-3) to at least 14 years old? | **Rec:** “The State Party should raise the minimum age of criminal responsibility, in accordance with internationally accepted standards, throughout the United Kingdom, the Crown dependencies and overseas territories, particularly in the above-mentioned areas.”**Simplification:** The Committee is recommending that the government increase the age at which someone can be held responsible for breaking the law. They say this age should be raised to meet the standards accepted around the world. This would apply to all areas under the government's jurisdiction, including the United Kingdom, its territories, and overseas territories. The international standard for the minimum age of criminal responsibility is typically set at 14 years old or older. However, some countries have set it even higher, at 16 or 18 years old. |
| Will the Scottish Government commit to legislative change to ensure children can independently exercise the right to withdraw from, or take part in, religious observance in schools? | No recommendation. |
| Will the Scottish Government ensure that no person is living in hospital without clinical need? | **Rec:** “The Committee urges the State party to repeal legislation, including the Mental Health Act 1983, and practices that authorise non-consensual, involuntary, compulsory treatment and detention of persons with disabilities based on actual or perceived impairment. Furthermore, the State party should intensify its efforts to guarantee the provision of sufficient community-based mental health services, providing early intervention and preventative support.”**Simplification:** The Committee is recommending that the government should change its laws and practices concerning the treatment of disabled people, particularly in the context of mental health. It's urging the government to get rid of laws, that allow for forcing people into treatment or detention against their will because of their impairment – not because of any clinical need. Detention can include in hospital settings. Instead, it recommends focusing on providing more support and services within communities. |

For any questions, please contact senior policy officer Lucy Miller on lucy@hrcscotland.org

1. [↑](#footnote-ref-2)
2. Minimum age of criminal responsibility. [↑](#footnote-ref-3)