



UNIVERSAL PERIODIC REVIEW

Scottish Government
Mid-term report
July 2014

NOTE - This contribution was submitted to the UK Government prior to Scotland's independence referendum. References to the Scottish Government's proposals for an independent Scotland should be read accordingly.

Purpose

1. This paper provides an overview of action taken by the Scottish Government to implement those recommendations relevant to Scotland which were made during the 2012 Universal Periodic Review of the UK by the UN Human Rights Council (2nd Cycle).

The Scottish Government's approach to human rights

2. The Scottish Government is committed to creating a modern, inclusive Scotland which protects, respects and realises internationally recognised human rights standards. We strongly believe in and subscribe to the principles laid out in the European Convention on Human Rights. Within the current constitutional settlement, Scotland's devolved institutions have a key role in implementing and upholding human rights standards. In those areas where we already have competence, Scotland takes a distinctive approach, reflecting widely-held progressive values.

3. Human rights are a cornerstone of the Scottish Government's constitutional aspirations. "*Scotland's Future: Your Guide to an Independent Scotland*"¹ was published on 26 November 2013, and in relation to fundamental rights states: "we will safeguard and strengthen Scotland's equality and human rights framework, and maintain its existing strong commitment to the European Convention on Human Rights". An independent Scotland could do more – human rights would be secured within a codified constitution, and we could ensure that Scotland becomes an exemplar of best practice, in keeping with the importance we have long attached to human dignity, equality and fairness and the pursuit of social justice.

The legal framework in Scotland

4. In relation to areas within devolved competence, human rights (in terms of the European Convention of Human Rights²) in Scotland are given legal effect through the *Scotland Act 1998*³ and the Human Rights Act 1998.⁴ Section 29(2)(d) of the Scotland Act states that provision made in an Act of the Scottish Parliament is outside the legislative competence of the Parliament so far as it is incompatible with any of the Convention rights.⁵ And section 57(2) states that: "*a member of the Scottish Executive has no power to make any subordinate legislation, or to do any other act, so far as the legislation or act is incompatible with any of the Convention rights.....*" In the event that an Act of the Scottish Parliament or subordinate legislation made by the Scottish Ministers is judged to be incompatible, it may be struck down as "not law" by the courts. This arrangement is closer to modern constitutional norms, of the kind seen in most comparable European jurisdictions and in constitutional models elsewhere in the world. It delivers a more effective remedy

¹ <http://www.scotreferendum.com/>

² http://www.echr.coe.int/Documents/Convention_ENG.pdf

³ <http://www.legislation.gov.uk/ukpga/1998/46/contents>

⁴ <http://www.legislation.gov.uk/asp/2006/16/contents>

⁵ "[T]he Convention rights" are those for which provision is made in Section 1 of, and Schedule 1 to, the Human Rights Act 1998 (<http://www.legislation.gov.uk/ukpga/1998/42/schedule/1>).

than the weaker “declaration of incompatibility” mechanism that applies to Westminster primary legislation.⁶

5. Under schedule 5 of the Scotland Act 1998, international state and institutional relations are reserved to the UK. However, the observation and implementation of both ECHR and international obligations constitute an exception to that reservation of competence. The Scottish Parliament, therefore, has a locus to protect and realise human rights, at least in respect of devolved matters. In terms of domestic legal provision, the Human Rights Act (1998)⁷ translates most of the provisions of the Convention into domestic UK law, and makes it unlawful for public authorities to act incompatibly with the Convention. The Scottish Government also takes account of the broader international human rights framework established and scrutinised by the United Nations, particularly in relation to treaties such as the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the Convention against Torture, the Convention on the Elimination of Racial Discrimination, the Convention on the Elimination of Discrimination against Women, the Convention on the Rights of Persons with Disabilities and the Convention on the Rights of the Child. We are working to ensure that Scotland’s distinctive approach is incorporated into the UK’s reporting to international treaty bodies and their subsequent examination of our human rights records under UN and Council of Europe Conventions and Treaties to which the UK is a signatory. As well as the UPR in 2012, the Scottish Government in 2013 participated in examinations covering implementation of the Convention against Torture and the Convention of the Elimination of Discrimination against Women. In 2014, the Scottish Government contributed to the UK’s report under the International Covenant on Economic, Social and Cultural Rights.

6. Scotland has its own National Human Rights Institution (NHRI),⁸ the Scottish Human Rights Commission,⁹ established by the Scottish Commission for Human Rights Act (2006).¹⁰ The independence of the Commission, and its freedom from influence by either the Government or the Parliament is statutorily guaranteed. Its work is transparent and publicly accessible, and it regularly reports on its activities as well as matters of finance and audit. As a UN-accredited NHRI, the Commission contributes actively to wider work on promoting and protecting human rights at the international level.¹¹ The specific functions of the Commission are set out in the Act, under which it has a general duty to promote awareness, understanding and respect for all human rights (economic, social, political, cultural and civil) to everyone, everywhere in Scotland, and to encourage best practice in relation to human rights.

⁶ The Convention rights are incorporated into UK law by the *Human Rights Act 1998*. Section 4(2) provides: If the court is satisfied that [a provision of primary legislation] is incompatible with a Convention right, it may make a declaration of that incompatibility.⁷ But Westminster is not obliged to take corrective action. “[P]rimary legislation” is defined in section 21.

⁷ <http://www.legislation.gov.uk/ukpga/1998/42/contents>

⁸ The Commission is one of over 80 NHRIs around the world, and one of three in the UK. The other UK NHRIs are the Northern Ireland Human Rights Commission, and the Equality and Human Rights Commission.

⁹ <http://www.scottishhumanrights.com/>

¹⁰ <http://www.legislation.gov.uk/asp/2006/16/contents>

¹¹ For the purposes of the 2006 Act, this means (a) the Convention Rights within the meaning of section 1 of the Human Rights Act and (b) other human rights contained in any international convention, treaty or other international instrument ratified by the UK.

The Commission also has a number of powers, which include the power to conduct inquiries into the policies or practices of Scottish public authorities, either those working to deliver a particular service, or public authorities of a particular description; the ability to provide education, training and awareness raising, and by publishing research; recommending such changes to Scottish law, policy and practice as it considers necessary; entering some places of detention as part of an inquiry; and intervening in civil court cases where relevant to the promotion of human rights and where the case appears to raise a matter of public interest. The Commission is under a duty to ensure it is not duplicating work that others already carry out.

The Universal Periodic Review

7. The Universal Periodic Review (UPR) involves a review of the human rights records of UN Member States. It is a State-driven process under the auspices of the UN Human Rights Council, which provides the opportunity for each State to declare what actions they have taken to improve the human rights situations in their countries and to fulfil their human rights obligations. As one of the main features of the Council, the UPR is designed to ensure equal treatment for every country when their human rights situations are assessed. The UPR was created through the UN General Assembly on 15 March 2006 by resolution 60/251, which established the Human Rights Council itself. The UPR is one of the key elements of the Council and reminds States of their responsibility to fully respect and implement all human rights and fundamental freedoms. The ultimate aim of this mechanism is to improve the human rights situation in all countries and address human rights violations wherever they occur.

8. The Scottish Government values the opportunity to participate, and for Scotland to be subject to scrutiny by such a mechanism. The last review of the UK under the UPR mechanism took place in 2012. The Scottish Government contributed to the review as a constituent part of the UK, collaborating with the Ministry of Justice as the lead UK Government Department to ensure that Scotland's distinctive approach in relation to the devolved competence was reflected in preparing the state report. Scottish Government officials attended the 'interactive dialogue' in Geneva and contributed to the UK Government's response to the recommendations made at the dialogue. The last UPR made 132 recommendations to the UK. Of these, a number relate wholly or partially to devolved matters in Scotland.

Update on recommendations accepted

9. The following section provides an update on the Scottish Government's current position in relation to recommendations we have accepted. These have been brought together under thematic headings with the recommendations clearly stated, to avoid unnecessary repetition in terms of our approach to them.

Human rights framework

10. **Recommendations:** Qatar recommended that human rights principles be integrated into domestic law, and Iran recommended the adoption and implementation of a concrete plan of action realising recommendations of treaty bodies, UN human rights mechanisms and international human rights obligations.

11. **Response:** In Scotland, we continue to ensure that human rights principles are integrated into domestic laws within devolved competence, as part of our positive approach to observing and implementing international human rights standards. Scotland's first National Action Plan for Human Rights (SNAP) was launched by the Scottish Human Rights Commission on 10 December 2013; this is designed to act as a roadmap for the realisation of human rights in Scotland. SNAP has been developed through a collaborative process involving key actors from the public and third sectors as well as wider civic society and rights holders, and has contributed to the development of a coalition of interest committed to realising SNAP's vision of a Scotland in which everyone lives with human dignity.

12. **Recommendations:** Mexico recommended that the UK comply with rulings from the European Court of Human Rights and promote participation and cooperation of EU Member States within the court.

13. **Response:** The Scottish Government is fully committed to complying with and implementing rulings from the Court where they apply to Scotland. We acknowledge and value the role of the Court as a key institution in ensuring that human rights are observed and implemented across the Council of Europe.

14. **Recommendations:** Costa Rica and Morocco made recommendations on the importance of ensuring the independence of the Equality and Human Rights Commission.

15. **Response:** The Equality and Human Rights Commission (EHRC) is accountable to the UK Government. The Scottish Government has been clear that we support the existence of a strong and independent EHRC and have expressed concerns to the UK Government about reforms. We remain concerned at the potential risk to the UN accreditation of the Commission, and to the consequential reputational risk to the UK, should planned reforms result in the loss of the Commission's 'A' status. We would contrast that with Scotland's own 'A' rated National Human Rights Institution, the Scottish Human Rights Commission (SHRC), with which this Government has a productive and constructive relationship. The independence of SHRC is guaranteed by the Scottish Commission for Human Rights Act (2006) and it cannot, in the exercise of its functions, be subject to the direction or control of either the Scottish Government or the Scottish Parliament.

Rights of women

16. **Recommendations:** Indonesia recommended continued efforts in the promotion of women's rights, and Uzbekistan urged that priority attention be given to questions of gender equality and discrimination against women. Sudan, India, Algeria and Ukraine recommended the need for policies and legislation to address the pay gap between men and women. Morocco recommended strengthening policies to combat discrimination in all areas, notably in education and employment.

17. **Response:** The Scottish Government firmly believes in a fair and equal Scotland, and we continue to prioritise work to tackle gender inequality and promote women's rights in all areas of our society. Following Scotland's first ever Women's Employment Summit, held in partnership with the Scottish Trade Union Congress on 12 September 2012, we have taken forward a range of actions aimed at helping women to achieve their full potential in the Scottish labour market, including: legislating to increase the amount of free early learning and childcare from 475 hours per year to a minimum of 600 hours per year for all 3 and 4 year olds; funding the 'CareerWISE' initiative £250,000 over two years from 2013-2015 to encourage girls to consider careers in science and engineering; establishing a Strategic Group on Women and Work to oversee and advise on the implementation of recommendations from the Women's Employment Summit; and reconvening a Cross-Government Group on Occupational Segregation to drive forward improvements in this challenging area. In addition, we have established a strategic high-level Programme Board to oversee work aimed at increasing the representation of women on Scotland's Public Boards. Unfortunately, the powers that would give us all the levers to effect change, such as the introduction of quotas, are reserved to the UK Government. That is why we have requested a section 30 order to devolve these powers to us and consulted to determine how quotas could be introduced to ensure that at least 40% of public boards' composition is female. We are currently considering the responses received to the consultation and will share our concrete proposals on how we would use the new powers with the UK Government shortly. In relation to the gender pay gap, our public sector pay policies require public bodies to ensure that pay is fair and non-discriminatory, and we continue to support work to raise awareness and encourage action by employees and employers to tackle the causes of pay inequality and to close that gap.

18. **Recommendations:** Cuba, Colombia and Malaysia recommended continued efforts to combat violence against women and girls, and Brazil advocated the adoption of a national strategy to tackle violence against women.

19. **Response:** Tackling Violence Against Women is a top priority for the Scottish Government, and we are committed to reducing and eventually eradicating it. We have committed £34.5m in total to tackle domestic abuse and other forms of violence against women for the period 2012-15, and continue to work closely with key partners such as Police Scotland, Local Authorities, NHS Boards and voluntary sector organisations to ensure that perpetrators are held to account, and that victims and their children have the services they require. Through collaborative work underpinned by financial commitment, the Scottish Government continues to implement the 'Safer Lives, Changed Lives' approach and, on 25 June 2014,

published 'Equally Safe: Scotland's strategy for preventing and eradicating violence against women and girls'.¹²

20. **Recommendations:** Slovenia recommended a review of policy in light of an assessment of the impact of the minimum age limit for overseas spouses or fiancés on the prevention of forced marriage.

21. **Response:** The Scottish Government supports any measures which make forced marriage more difficult. We believe that everyone in Scotland who is eligible to marry or enter into a civil partnership has a right to do so freely and without coercion. There was cross party support for the introduction of the Forced Marriage Act and this was reflected in its straightforward passage through the Scottish Parliament in 2011. The Act provides civil remedies for those at risk of forced marriage and those who have already been forced into marriage. Courts can tailor the terms of the Protection Order according to the specific needs of the victim. Breach of an order is a criminal offence, punishable by a fine of up to £10,000 or up to two years imprisonment. We developed an implementation strategy to help maximise the impact of the Forced Marriage Act by producing and issuing statutory and practitioner guidance to support organisations to formalise their response to cases of forced marriage and advise them of their obligations under the legislation. We further procured a programme of multi-agency training to assist support organisations to effectively identify forced marriage and support those affected, and have continued to work with key partners (including police, statutory and third sector) to develop and to use all appropriate opportunities to inform, in a sensitive manner, rights and responsibilities in relation to forced marriage, promoting individual rights and informed choice. From 30 September, forcing a person into marriage will be a criminal offence in Scotland. Criminalising forced marriage will give an additional layer of protection for some of our most vulnerable people and will ensure consistency of protection across the UK. Those who are convicted can face up to seven years in prison.

Rights of the child

22. **Recommendations:** France recommended that the UK take all measures necessary to fully implement the UN Convention on the Rights of the Child (UNCRC), and Slovakia recommended full incorporation into domestic law of UNCRC principles and provisions.

23. **Response:** In Scotland, we are committed to giving effect to the principles of the Convention in domestic law and policy wherever possible. However, we also believe that incorporation is best achieved on a case by case basis, and are not of the view that wholesale incorporation of the UNCRC into domestic law represents the best way to progress our approach to children's rights at this time. Details of our work in this area are set out in the UK Government's 5th periodic report on implementation of the UNCRC published in May 2014.¹³

¹² <http://www.scotland.gov.uk/Publications/2014/06/7483>

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http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CRC%2fC%2fGBR%2f5&Lang=en

24. **Recommendations:** Norway recommended setting a clear pathway to meet the goal of ending child poverty in the UK by 2020.

25. **Response:** In Scotland, our approach to child poverty is reflected in our commitment to collaborative working and investment at a national and local level to tackle the long term drivers of poverty and income inequality. The Child Poverty Strategy for Scotland¹⁴ expresses this in relation to the Government's overall emphasis on early intervention and prevention. We focus on maximising household resources, improving children's wellbeing and life chances and ensuring children from low-income households grow up in sustainable places. This preventative approach to tackling poverty is crucial to our vision of a Scotland that is wealthier and fairer. Most recent figures show that Child Poverty in Scotland has fallen substantially since devolution, from 28% in 1999-00 to 19% in 2012-13. The Scottish Government is also protecting household incomes through the Social Wage, which includes free personal care for the elderly; abolition of tuition fees; scrapping of bridge tolls and prescription charges; free eye examinations; freezing of council tax; concessionary bus passes and increasing the provision of free nursery education. In addition, we are committed to supporting the Scottish Living Wage (new rate £7.65 p/h as of 1 April 2014), protecting the pay of the lowest earners we have direct responsibility for through our public sector pay policy and encouraging employers in the public, private and third sector in Scotland to do likewise.

26. **Recommendations:** Costa Rica recommended the adoption of a strategy so that children of vulnerable groups are not excluded from the education system.

27. **Response:** The Scottish Government is committed to ensuring all children make the most of their learning. Through Curriculum for Excellence, every child and young person is entitled to expect a broad general education, including well planned experiences and outcomes across all the curriculum areas from early years through to S3. In addition, the Education (Additional Support for Learning) (Scotland) Act 2004 (as amended) is the framework for the provision of support for learning in Scotland and is key to delivering our ambition that all children and young people access the learning opportunities which are available to them, so that they can realise their full potential, in learning, in work and in life. Major developments since September 2012 include the enactment of the Children and Young People (Scotland) Act 2014,¹⁵ which covers, amongst other areas: children's rights; investigations by the Commissioner for Children and Young People in Scotland; and children services. Parents and young people have a series of rights relating to assessment, planning and appeal. Scottish legislation allows schools to exclude pupils, either temporarily or permanently, where it is felt that allowing the pupil to continue would be detrimental to order and discipline in the school. However, during periods of temporary exclusion and following a permanent exclusion from a school, the education authority retains a legal obligation to provide education in some form. When considering the decision to exclude, schools are encouraged to explore alternatives and take account of the individual circumstances in each case.

¹⁴ <http://www.scotland.gov.uk/Topics/People/welfarereform/tacklingpovertyinScotland/CP>

¹⁵ <http://www.legislation.gov.uk/asp/2014/8/contents/enacted>

28. **Recommendations:** Belarus and Chile recommended raising the minimum criminal age of responsibility and refraining from the practise of keeping children in custody.

29. **Response:** Following the raising of the age of criminal prosecution from 8 to 12 in the Criminal Justice and Licensing (Scotland) Act (2010), the Scottish Government has undertaken to review the age of criminal responsibility before the end of the current session of the Scottish Parliament. The next election will take place in May 2016. On the issue of custody, the Criminal Justice and Licensing (Scotland) Act 2011 introduced provisions to end the very rare practice of remanding 14 and 15 year olds in the prison estate. The age 16-21 population within Scottish prisons decreased by 8% (sentenced) and 1% (remand) over 2011-12.

30. **Recommendations:** Slovakia recommended that the best interests of the child are taken into account when arresting, detaining, sentencing or considering early release for a sole or primary caregiver of a child.

31. **Response:** In Scotland, it is an operational matter for the police to determine appropriate action during and following the removal of a parent into police custody. The welfare of the child is of paramount importance and in some cases there will be a need for a multi-agency approach, involving the police, social work and childcare professionals to carefully consider the child's needs, any views expressed by the child and, if required, consider and put in place suitable measures in order to protect the child. On the issue of sentencing, the Scottish Government's position is that in all cases it is for the courts to decide on the most appropriate sentence, within the overall legal framework. The complete independence of the judiciary in making sentencing decisions is at the heart of the criminal justice system in Scotland and it is appropriate that sentencing decisions are entirely a matter for the judge, who hears all the facts and circumstances surrounding the offence and the offender, and takes into account any factors which they consider to be relevant before reaching a view on whether a custodial sentence or non-custodial sentence should be imposed.

Race, religion and belief

32. **Recommendations:** On immigration and integration, Pakistan recommended intensifying efforts to promote multiculturalism at all levels, and Nepal advocated further measures to promote and protect migrants' human rights. Paraguay and Vietnam recommended strengthening measures to guarantee the effective implementation of the human rights of migrants in accordance with existing international instruments. Honduras, Ecuador and Mexico advocated the continued adoption of measures to prevent indefinite detention of migrants and provide all legal safeguards to detained migrants. Argentina urged measures be taken to avoid detention of asylum seekers during the process of determining their status. Bangladesh recommended raising awareness about the rights of migrants and the impact of racial discrimination.

33. **Response:** Working in partnership with its key race equality stakeholders (BEMIS, CEMVO, Scottish Refugee Council, Interfaith Scotland and the Equality and Human Rights Commission), the Scottish Government is developing a discussion paper on its new approach to race equality in Scotland, *'Equal for All. Better for All'*.

This draft document builds on the previous Race Equality Statement of 2008 and details four priority focus areas which were contained in the original Statement: poverty and employment; discrimination and hate crime; representation in public life; and strong, resilient communities. The Scottish Government, aided by key race equality partners and communities, will coordinate a consultative approach, seeking to involve and engage with as wide a range of individuals and organisations as possible to develop specific actions and new ideas to take the work even further. From 2012-15, the Scottish Government is providing over £8 million from its equality budget to organisations working to address race equality in Scotland.

34. Migrants are an important part of Scotland's future, both in terms of contributing to sustainable economic growth and mitigating the effects of demographic change. Scotland continues to welcome migrant workers, who are one of the main contributors to our population growth. The Scottish Government is committed to advancing the integration of Roma communities and improving conditions for Gypsy/Travellers through research, planning and financial support. We are working to develop an overarching strategy and action plan for Gypsy/Travellers, which builds on existing work and draws on the recommendations of recent inquiries undertaken by the Scottish Parliament's Equal Opportunities Committee.

35. It should be noted that many of the levers in relation to race and refugee integration are reserved to the UK Government, and we would differ with some aspects of their approach. For example, we do not agree with the practice of detaining asylum seekers. Where possible, we utilise our devolved powers to encourage integration of migrants and asylum seekers from "Day 1" of their arrival. In December 2013, we published our new refugee integration strategy, '*New Scots: Integrating Refugees in Scotland's communities*'¹⁶ and will also provide £2.81 million for the period 2012-15 to organisations working with refugees and asylum seekers in Scotland. (The £2.81 million is included in the £8 million mentioned above). In an independent Scotland, the asylum process would be underpinned by an emphasis on robust, fair, socially responsible and thorough decision making, with a clear adherence to human rights and equality principles and to the rule of law. In line with most other developed nations, we face demographic challenges in the years and decades to come, and we will work to encourage young people to build their lives and careers within Scotland and to attract people to live in Scotland.

36. **Recommendations:** China urged the taking of effective measures to eliminate discrimination on the grounds of race, religion and nationality, and to guarantee the rights of Muslims, Roma and migrant workers. Iran advocated the establishment of immediate means of redress and protection of ethnic and religious minorities and migrants, particularly Muslims. Hungary recommended that the UK share best practise in terms of tackling the situation of the Roma and Traveller people through the EU Framework for National Roma Integration Strategies adopted in 2011. Turkey recommended that all appropriate measures be taken to combat prejudice and negative stereotypes which may result in racial discrimination or incitement to racial hatred; and seeks for the UK to implement the Council of Europe's Anti-Racial Discrimination's recommendation to continue to monitor hate

¹⁶ <http://www.scotland.gov.uk/Publications/2013/12/4581>

crimes, to work with communities to increase understanding of the impact of such offences, and to pursue efforts to improve the police gathering of evidence of racial motivations.

37. **Response:** The Scottish Government values diverse ethnic communities, the contribution they make and the important role they play in enriching Scotland socially, culturally and economically. While measures taken to address these issues operate for the most part within the existing UK legislative framework, the Scottish Government has taken a range of measures to deliver race equality and better outcomes for Scotland's minority ethnic and faith communities. Working in partnership with its key race equality stakeholders (BEMIS, CEMVO, Scottish Refugee Council, Interfaith Scotland and the Equality and Human Rights Commission), the Scottish Government is developing a discussion paper on its new approach to race equality in Scotland '*Equal for All. Better for All*'. This draft document builds on the previous Race Equality Statement 2008 and details four priority focus areas which were contained in the original Statement: poverty and employment; discrimination and hate crime; representation in public life; and strong, resilient communities. The Scottish Government, aided by key race equality partners and communities, will coordinate a consultative approach, seeking to involve and engage with as wide a range of individuals and organisations as possible to develop specific actions and new ideas to take the work even further.

38. In 2009 the Scottish Government supported legislative change to strengthen the criminal law in dealing with hate crime, and current data collection in Scotland includes a variety of statistics relating to hate crime. This encompasses statistics about people convicted in court for "aggravated" crimes, including hate crimes relating to the protected characteristics of race, religion, disability, sexual orientation and gender reassignment. The Scottish Government is also providing over £8 million in race equality funding for 2012–15 to organisations and projects working on the ground. A campaign to raise awareness about hate crime, including racism, was launched in February 2014 to empower those who experience or witness crime based on prejudice to report all incidents to Police Scotland.

39. The new Equality website launched in July 2014 with the message that 'Scotland believes in equality'. This is aligned with the Commonwealth Games values of humanity, destiny and equality to show that we are a welcoming and inclusive society, which respects and celebrates diversity.

Justice and Security

40. **Recommendations:** Iran recommended shortening the length of time for pre-trial detention and strengthening guarantees for detained persons, and Russia advocated the full realisation of the right of detainees to legal assistance immediately after being taken into detention. Austria recommended continued efforts to ensure that "secret evidence" is only used in cases where there is a serious and immediate threat to public security and ensure independent and effective judicial oversight.

41. **Response:** In Scotland, previous and ongoing reforms to the criminal justice system are designed to bring fully prepared cases to court as quickly as possible. In terms of additional guarantees, the Scottish Government plans to consider new

safeguards for child and vulnerable adult suspects being questioned by the police (currently being taken forward in draft legislation). The Criminal Justice (Scotland) Bill, currently before Parliament, extends the time that an accused can be remanded in custody pending trial from 110 to 140 days, following a recommendation of the Bowen Review of Sheriff and Jury Procedure. This is in order to accommodate more communication and preparation between the prosecution and defence prior to a trial, with a view to avoiding trials being postponed. The Bill also includes provision that seeks to ensure suspects are not unnecessarily or disproportionately held in police custody. This includes the introduction of investigative liberation, whereby police are able to release a person from custody for a set period of time whilst they carry out further investigations. The Scottish Government has also established a right to essential information for suspects in criminal proceedings (including a right to interpretation and translation), and have created a "letter of rights" in a range of languages explaining their rights to persons in custody. In relation to "secret evidence", we implemented the recommended practice in the disclosure (of information to the defence) regime set out in the Criminal Justice and Licensing (Scotland) Act 2010. All consideration of "secret evidence" is dealt with by a judicially managed process involving special counsel.

42. **Recommendations:** Spain and Colombia recommended increased efforts to combat trafficking in persons, particularly to protect women and children; and Australia advocated the implementation of the EU Directive on trafficking in human beings, and the signing of Council of Europe Convention on Preventing and Combating Violence Against Women and Domestic Violence. Greece recommended the taking of all measures to ensure that all trafficked people are able to access the support and services they are entitled to, including free legal aid and access to compensation.

43. **Response:** The Scottish Government is committed to tackling the abhorrent crime of human trafficking through partnership working with the UK Government and others, and has both changed the law and provided resources to meet European standards and assist enforcement and prosecution. Scottish trafficking legislation is kept under review and we respond as appropriate to any developments to reflect our commitment to tackle this form of serious organised crime. Following the Human Trafficking Summit, hosted by the Cabinet Secretary for Justice in October 2012, Scottish Ministers have been working with other agencies to strengthen Scotland's response to human trafficking. During 2013 Police Scotland published, with Scottish Government support, an awareness-raising leaflet to assist public and private sector organisations in spotting the signs of potential human trafficking, how to report concerns, and details of agencies available to provide support to potential victims. In March 2014 Scottish Ministers confirmed that dedicated Scottish legislation on human trafficking will be introduced during this parliamentary session. The Bill will consolidate and strengthen existing criminal law against trafficking, enhance the status of and support for the victims of trafficking, and require relevant agencies to work with the Scottish Government to develop and implement a Scottish Anti-Trafficking Strategy. We do agree that monitoring progress of anti-trafficking efforts throughout the UK is of the utmost importance, and an Inter-Departmental Ministerial Group (IDMG) is in place to coordinate and oversee our progress in this area. The IDMG comprises ministers from each constituent nation in the UK to ensure effective representation and is currently the UK's equivalent Rapporteur mechanism.

44. **Recommendations:** Russia recommended measures to reduce prison overcrowding and improve conditions for detainees, whilst Austria advocated further concrete steps to reduce overcrowding of prisons, including through the increased application of alternative sentencing for juvenile offenders. Thailand recommended that the UK consider incorporating the UN Rules for the Treatment of Women Prisoners and Non-Custodial Measures for Women Offenders (otherwise known as the “Bangkok Rules”) as part of its policy on the treatment of women prisoners, and Nicaragua recommended that the UK improve programmes for social reintegration of detainees.

45. **Response:** The Scottish Government continues to invest in a fit-for-purpose prison estate. Following the opening of HMP Low Moss in early 2012, HMP Shotts was rebuilt and reopened in October 2012 and a further new prison, HMP & YOI Grampian, opened in March 2014 to replace the aging facilities at HMP Aberdeen and HMP Peterhead. The Community Payback Order and the presumption against short sentences have now been in force for over 3½ years and have been successful in reducing the number of individuals being sentenced to short periods of imprisonment.

46. With reference to juvenile offenders, we are championing the use of the whole system approach, which aims to achieve positive outcomes for young people by helping various statutory and non-statutory bodies to work together to build a more consistent approach to prevent and reduce offending by children and young people through early and effective intervention. This continues to see a marked reduction in the number of juvenile offenders receiving custodial sentences.

47. In relation to female offenders, Scotland has established standards for treatment in a custodial and non-custodial setting, which comply with the broad principles set out in the so-called “Bangkok Rules.” The Scottish Government continues to pro-actively improve the outcomes for women offenders in the criminal justice system, and, as mentioned previously, recently commissioned an independent expert Commission to examine how to improve these and make recommendations in this regard. We largely accepted these recommendations and are working with justice partners to take them forward.

48. In relation to reintegration of detainees, we have already identified reducing reoffending as a principle where proactive improvement could make a significant contribution to reducing crime, improving public life, and reducing the prison population. With that aim, we are undertaking an ongoing process of review and proactive improvement to adult community justice services. Under the second three year iteration of the Reducing Reoffending Programme 2012-15, this work will include thorough examination of the funding, structures and performance management for the delivery of such services, and the establishment of new, improved structures and processes as necessary. A separate project will analyse the management of offenders' transition from custody to community, and deliver improvements to the processes and services available to all prison leavers, with a particular focus on those completing short-term sentences.

49. **Recommendations:** The USA urged strengthened data collection and maintenance to better understand the scale and severity of hate crimes. Malaysia recommended the taking of more effective measures to ensure that perpetrators of acts of discrimination, hate crimes and xenophobia are adequately deterred and sanctioned.

50. **Response:** In 2009 the Scottish Government supported legislative change to strengthen the criminal law in dealing with hate crime, and current data collection in Scotland includes a variety of statistics relating to hate crime. This encompasses statistics about people convicted in court for "aggravated" crimes, including hate crimes relating to the protected characteristics of race, religion, disability, sexual orientation and gender reassignment. A campaign to raise awareness about hate crime, including racism, ran earlier in 2014, and was successful in reaching a wide audience.

Economic, Social and Cultural Rights

51. **Recommendations:** Nepal recommended continued efforts in protecting the rights of all segments of society, and Vietnam advocated greater resources for welfare reform to ensure it tackles poverty and unemployment, and reduces the negative impact on socially vulnerable groups. Cuba recommended the guaranteed enjoyment of economic, social and cultural rights, particularly health, education and adequate housing, and Spain recommended stronger measures aimed at reducing serious inequalities in access to health, education and employment. Indonesia recommended continued efforts in tackling discrimination and inequality for all citizens.

52. **Response:** The Scottish Government's Purpose is to focus government and public services on creating a more successful country, with opportunities for all of Scotland to flourish, through increasing sustainable economic growth. We measure success through a National Performance Framework, which works towards outcomes relevant to the enjoyment of rights to health, education and housing. These include working to ensure that Scots live longer and healthier lives, that young people are successful learners, that Scots are better educated and live in well designed, sustainable places. These outcomes are measured through specific national indicators, which provide us with information on where we are achieving success and where more still needs to be done. Our ambition for Scotland embraces the principles of equality, fairness and social justice - these are at the heart of the vision for a new Scotland. Equality is integral to delivery on the aforementioned purpose, to economic growth and wellbeing, to the public service reform agenda and to the shift to prevention. We are providing over £60 million of funding from the Equality budget during 2012-15 to support and develop the infrastructure and key organisations and projects to advance equality across Scotland, and to support equality work and the capacity of communities to promote equality and to engage in policy making. In relation to the Equality Act 2010, further 'specific duties' were made by Scottish Ministers in May 2012 to enable the better performance of the duty in the Act. The package of duties provides a robust and proportionate framework to assist in the delivery of improved outcomes for people in Scotland and they run with the grain of public service reform.

53. While we support the principle that the welfare system should be simpler, we are concerned - Scottish Government analysis, published on 7 April 2014, estimates that the cumulative impact of the UK Government's welfare reforms over the six years to 2015-16 could result in the Scottish welfare bill being reduced by around £6 billion, and it is estimated that over £1 billion relates directly to children in Scotland. Where we have responsibility, we are investing to support vulnerable people. Our current and planned *mitigation* funding will result in an investment of at least £260m over the period 2013-16. In the meantime, we continue to press the UK Government for fairer reform and to ensure that safeguards are in place for those who need them most.

International

54. **Recommendations:** On international development, Trinidad & Tobago recommended continued financial commitment through overseas development assistance programmes. Bangladesh advocated that consideration be given to contributing to the objective of mainstreaming the right to development, and Pakistan urged the UK to play an effective role to operationalize the right to development at international level.

55. **Response:** Scottish Ministers continue to support international development in the form of our International Development Fund (IDF). Our commitment is clearly evidenced by our doubling of the baseline budget from £4.5 million to £9 million between 2007-12, and a commitment to keeping the IDF at this level for the duration of the spending review period. We have focussed our development programmes to be more strategic and sustainable, and to encourage close partnership working to meet the needs and priorities of developing countries. Our unique model means that we provide funding for Scottish NGOs to work in partnership with organisations in the developing world on priority areas, particularly those where Scotland has specific skills and expertise, such as education, health and renewable energy. In addition, all our work across our priority countries is clearly focused on the key objective of poverty alleviation and the achievement of the Millennium Development Goals, and must adhere to the principles of the Paris Declaration on Aid Effectiveness. In order for the IDF to have the maximum possible impact, we have focused on specific countries (such as Malawi) with which we have a historic or contemporary relationship, and that are in particular need. The IDF is also targeted at countries that have a long standing historical connection with Scotland.

56. **Recommendations:** In the context of the above, Spain and Germany recommended recognition of the right to safe drinking water and sanitation.

57. **Response:** The Water Resources (Scotland) Act and Scotland's Hydro Nation agenda both promote action on water and sanitation issues. Scotland's Hydro Nation approach of developing the value of our water resources domestically, through international trade, knowledge exchange and through international development work such as the Climate Justice Fund is a strong supporting contribution to the water and sanitation resolutions.

Other issues

58. **Recommendations:** Angola and Ecuador recommended the adoption of necessary actions to prevent impunity and further violations of privacy committed by private media companies.

59. **Response:** It is worth reiterating that press regulation is devolved to Scotland. In April 2013, the Scottish Parliament unanimously endorsed the Scottish Government working with the UK Government in developing a UK-wide Royal Charter for press regulation that implements the recommendations of the Leveson Inquiry. The Royal Charter was confirmed by the Privy Council in October 2013.

Recommendations not accepted

60. The Scottish Government continues to disagree with some recommendations.

61. **Recommendation:** The USA recommended the appointment of a Rapporteur in each devolved authority to improve the UK's overall anti-trafficking response.

62. **Response:** The Scottish Government considers this to be unnecessary given the existing coordination arrangements between the UK and devolved governments, and the proposal to create a new UK wide Anti-Slavery Commissioner.

63. **Recommendation:** Iran recommended that the UK facilitate the Red Cross's access to prisons.

64. **Response:** The Scottish Government considers this to be unnecessary. We are in the process of abolishing the current system of prison visiting committees and replacing them with prison monitors under the auspices of the Chief Inspector of Prisons for Scotland. A number of organisations in Scotland, including the Scottish Human Rights Commission, also form part of the scrutiny mechanism of the Optional Protocol for the Convention against Torture (OPCAT).

65. **Recommendation:** Egypt recommended the UK review national legislation to ensure equality and non-discrimination.

66. **Response:** The Scottish Government has no plans to review legislation in those terms. However, we continue to take a distinctive approach to implementing the public sector equality duty (PSED) in the Equality Act 2010, which is supporting work to identify unlawful discrimination and encourage the promotion of equality across Scotland. We are under a duty to assess and review our policies and practices against the requirements of the PSED.

67. **Recommendation:** Sweden, Norway and Finland recommended the UK take measures to ensure the freedom of children from corporal punishment, in accordance with the UN Convention on the Rights of the Child.

68. **Response:** We have no plans to change our approach, which protects children and also avoids criminalising parents for actions such as light smacking. The Scottish Government does not support smacking as a way of disciplining

children and will continue to promote reasonable alternatives. In Scotland, it is already illegal to punish children by shaking, hitting them on the head and by using a belt, cane, slipper, wooden spoon or other implement. In addition, if a court were looking into the physical punishment a child had received, it would consider the child's age; what was done to the child, for what reason and what the circumstances were; the duration of the punishment and the frequency; how it affected the child (physically and mentally); and other issues personal to the child, such as their sex and state of health.

Conclusion

69. The Scottish Government takes this opportunity to reaffirm its strong commitment to the protection, respect for and realisation of human rights, and its commitment to constructive and meaningful engagement with the Universal Periodic Review mechanism and the broader international human rights framework of treaties.

SCOTTISH GOVERNMENT

July 2014