

Briefing to MSPs - Scottish Human Rights Commission's Spotlight Report: 'Economic, Social and Cultural Rights in the Highlands and Islands'

Debate: 'Scottish Human Rights Commission's Spotlight Project into Economic, Social and Cultural Rights in the Highlands and Islands'

Date: Thursday 16 January 2025

Motion number: S6M-15705

Proposed by: Rhoda Grant MSP

1. Summary

The Scottish Human Rights Commission welcomes this parliamentary debate and extends gratitude to Rhoda Grant MSP and the MSPs who have supported motion S6M-15705.

The Commission has a general duty to take action to promote human rights for everyone in Scotland. As an SPCB supported body, our role is to support the Scottish Parliament to be informed about Scotland's human rights obligations, and to provide insight on how these are being met in order to assist in its own role as the ultimate guarantor of human rights in Scotland.

This debate is a vital opportunity for Parliament to reflect on the findings of the Commission's report 'Economic, Social, and Cultural (ESC) Rights in the Highlands and Islands', published in November 2024. Our findings indicate serious gaps in the realisation of basic human rights across the region, underscoring systemic challenges that demand urgent attention. Critical issues include an apparent failure to meet the most basic international obligations related to the right to health, the right to housing and the right to food.

We offer eight recommendations to support steps towards improved compliance with Scotland's international human rights obligations:

- Strengthen human rights laws and access to justice
- Meet minimum core obligations for human rights

- Improve service adequacy
- Listen to communities and adopt a human-rights based approach
- Flexible and localised policies
- Assess policy impact on Highlands and Islands
- Create specific targets for human rights
- Human rights budgeting

The assessment tool we have developed has been recognised internationally as good practice. We have published it in our report with the intention that public bodies are now able to utilise it in their own work to plan, monitor and assess a human rights-based approach to service design and delivery.

Our evidence will be submitted to the United Nations Committee on Economic, Social and Cultural Rights to inform its monitoring cycle of considering compliance of the UK with the Covenant this month and will be considered by the Committee at the United Nations in Geneva in February 2025.

The Commission will be travelling to communities across the Highlands and Islands in February and March 2025 to share our findings.

We will replicate the research in the South of Scotland region in 2025-26.

Our report on ESC Rights in the Highlands and Islands will also be complemented by work The Children and Young People's Commissioner Scotland is currently undertaking on children's experiences of their right to education, as outlined by the United Nations Convention on the Rights of the Child.

2. What are Economic, Social and Cultural Rights?

Economic, Social, and Cultural (ESC) rights are protected under international law. The UK has ratified several binding instruments that enshrine these rights, including the International Covenant on Economic, Social and Cultural Rights (ICESCR) and the European Social Charter.

ESC rights are essential for living a dignified life, free from fear and want. These include economic rights (e.g., social security and workers' rights), social rights (e.g., healthcare, education, housing, food), and cultural rights (e.g., the right to participate in cultural life and benefit from scientific progress). ESC rights come with unique obligations: 1) Progressive Realisation; 2) Maximum Available Resources; 3) Non-

Retrogression; 4) Minimum Core Obligations; and 5) Conditions of Adequacy. These are explained further in the full report.

ESC rights are not explicitly protected by the Human Rights Act and have yet to be incorporated into UK or Scots law as fundamental rights. The Scottish Government has committed to incorporating the International Covenant on Economic, Social and Cultural Rights into Scots law. This has yet to be delivered.

3. Why did the Commission do this work?

In the last few years, the Commission has become increasingly concerned about ESC rights in the Highlands and Islands. We have been particularly concerned about the lack of available data for monitoring in the Highlands and Islands, when compared with the rest of Scotland.

With this new approach, we aimed to take a step toward filling the gaps in human rights data; to make sure that rural and island communities have their economic, social and cultural rights met; and to raise awareness of human rights issues with decision makers. This work has also developed a new, regular domestic human rights monitoring model for the Commission to inform both the Scottish Parliament and its international human right monitoring obligations.

We progressed this work under section 3(c) of the Scottish Commission for Human Rights Act 2006 and offer our recommendations under section 4(1)(b) of the Scottish Commission for Human Rights Act 2006.

4. Who did we speak to?

The Commission visited 20 communities across the Highlands and Islands conducting interviews with a diverse group of individuals. Interviewees included human rights defenders, community representatives, MSPs and their caseworkers, third sector staff, advice givers, representatives of community development trusts, teachers, crofters, lawyers, health workers, housing professionals and carers. A total of 146 people were interviewed. These semi-structured interviews explored participants' experiences with accessing essential services such as housing, healthcare, education and food. Locations visited included:

- Lerwick, Shetland
- Kirkwall, Orkney
- Thurso, Caithness, Sutherland and Ross

- Wick, Caithness, Sutherland and Ross
- Dingwall, Caithness, Sutherland and Ross
- Inverness, Inverness & Nairn
- Elgin, Moray
- Stornoway, Na h-Eileanan an Iar
- Tarbert, Na h-Eileanan an Iar
- Ullapool, Caithness, Sutherland and Ross
- Portree, Skye, Lochaber and Badenoch
- Dunoon, Argyll & Bute
- Colintrave, Argyll & Bute
- Lochgilphead, Argyll & Bute
- Fort William, Lochaber and Badenoch
- Oban, Argyll & Bute
- Lairg, Caithness, Sutherland and Ross
- Lochinver, Caithness, Sutherland and Ross
- Kinlochbervie, Caithness, Sutherland and Ross
- Tongue, Caithness, Sutherland and Ross

The Commission also analysed trends in complaints raised with MSPs and the Scottish Public Services Ombudsman (SPSO). Anonymised survey data was collected from 11 out of 15 MSPs contacted, alongside a review of 79 cases decided by the SPSO between February 2021 and July 2024, focusing on complaints related to housing, healthcare and social services.

Our team developed an assessment framework for ESC rights using internationally recognised indicators and measured the status of each right against the evidence we gathered.

5. Our findings

We found significant challenges in the current enjoyment of ESC rights for people in the Highlands and Islands. While this does not constitute an absolute or definitive assessment, it highlights areas where people have expressed concern or frustration regarding their rights. The evidence from rights holders is consistent with some of

the information the Commission has previously reported to the UN Committee on Economic, Social and Cultural Rights.

Some of the most critical issues we identify are the apparent failure to meet the most basic international obligations related to the right to food, the right to housing, the right to health and the right to cultural life.

Another area of concern is the apparent regression or deterioration of rights across the Highlands and Islands, as reported by rights holders. This is exacerbated by decisions on budget reductions or indeed the complete elimination of previously existing services, without sufficient mitigating measures.

Across all rights examined, there is not a single human right that meets all the conditions of adequacy under international law. This means there are significant failures in how policies and services are being designed and/or delivered. In general terms, this means services across the Highlands and Islands are not fully accessible, affordable, available, acceptable, or of sufficient quality (among other conditions).

| Right | Minimum Core Obligations | Progressive realisation | Non-Retrogression | Adequacy |
|-------------|-----------------------------|-----------------------------|-----------------------------|-----------------------------|
| Clothing | Not possible to determine | Does not meet obligations | Partially meets obligations | Partially meets obligations |
| Housing | Does not meet obligations | Partially meets obligations | Partially meets obligations | Partially meets obligations |
| Health | Partially meets obligations | Partially meets obligations | Does not meet obligations | Partially meets obligations |
| Social Care | Not possible to determine | Partially meets obligations | Does not meet obligations | Partially meets obligations |
| Education | Meets all obligations | Partially meets obligations | Does not meet obligations | Partially meets obligations |
| Culture | Partially meets obligations | Partially meets obligations | Does not meet obligations | Partially meets obligations |

Further detail is provided in the full report, available at www.scottishhumanrights.com

6. Key recommendations

The Commission has made eight recommendations to duty bearers, to ensure progress towards better compliance with Scotland's international human rights obligations:

1. Strengthen Human Rights Laws and Access to Justice

Economic, social and cultural rights need legal protection. A strong legal framework is required, which the Scottish Government's proposed Scottish Human Rights Bill may address if introduced in the next session of the Scottish Parliament. Complaint mechanisms must also be improved to ensure they are accessible, affordable, timely and effective.

2. Meet Minimum Core Obligations

Urgent action is needed to eradicate rooflessness and hunger in the Highlands and Islands. Universal access to affordable, acceptable, and quality sexual and reproductive health services must also be prioritised, with resources allocated accordingly.

3. Improve Service Adequacy

Duty-bearers must enhance the accessibility, availability, acceptability and quality of services. Strategies should be developed to guide improvements. The monitoring framework in our report can help ensure services meet human rights obligations.

4. Listen to Communities and Adopt a Human Rights-Based Approach

Duty-bearers should engage with the voices and lived experiences of communities, especially the most vulnerable. A human rights-based approach (HRBA) focused on transparency, collaboration and people-centred services is essential. Policies must consider real-life experiences, not just data.

5. Flexible and Localised Policies

Policies should be adaptable to the specific needs of remote and rural areas. Learning from Nordic countries' success in realising economic, social, and cultural rights in rural settings could offer valuable insights, especially in housing, health, and education. Programmes should be tailored to address local challenges.

6. Assess Policy Impact on Highlands and Islands

Mechanisms like the Island Impact Assessment should be expanded to include non-island communities. Human rights considerations must be embedded in all policy assessments, with parliamentary scrutiny to ensure laws and policies take into account the needs of the Highlands and Islands.

7. Create Specific Targets for Human Rights

Concrete, targeted objectives should be developed to progressively improve human rights, with well-thought-out plans covering short, medium, and long-term goals.

8. Human Rights Budgeting

Given limited resources, duty-bearers should adopt human rights budgeting to allocate resources more effectively and fulfil human rights obligations. This will ensure the best use of available resources to achieve maximum impact.

More details can be found on pages 8 and 9 of our report ['Economic, Social and Cultural Rights in the Highlands and Islands'](#).

7. Next steps

Across February and March 2025, the Scottish Human Rights Commission will be travelling again to the Highlands and Islands to share our findings and enable local communities to use this report to defend their rights. We will also be offering to meet with duty-bearers, to provide support and capacity-building on how to take a human rights-based approach.

The Commission will expand this monitoring model to other areas of Scotland over the next three years, as part of our 2024-28 Strategic Plan. By applying this approach to other regions, we aim to create a comprehensive baseline picture of ESC rights realisation across Scotland, ensuring no community is left behind.

We will also be presenting our findings to the United Nations within our upcoming treaty monitoring report on Scotland's progress on the International Covenant on Economic, Social and Cultural Rights (ICESCR).

8. For more information

Read the Executive Summary and Full Report 'Economic, Social and Cultural Rights in the Highlands and Islands' on the [Spotlights page](#) of our website at www.scottishhumanrights.com.

If you would like to contact the Commission for further information about our work, please email Chair Angela O'Hagan or Executive Director Jan Savage via chairandexecutive@scottishhumanrights.com or telephone 0131 297 5750.