



OFFICIAL REPORT
AITHISG OIFIGEIL

DRAFT

Rural Affairs and Islands Committee

Wednesday 26 February 2025

Session 6



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RURAL AFFAIRS AND ISLANDS COMMITTEE

7th Meeting 2025, Session 6

CONVENER

*Finlay Carson (Galloway and West Dumfries) (Con)

DEPUTY CONVENER

*Beatrice Wishart (Shetland Islands) (LD)

COMMITTEE MEMBERS

*Ariane Burgess (Highlands and Islands) (Green)

*Tim Eagle (Highlands and Islands) (Con)

*Rhoda Grant (Highlands and Islands) (Lab)

*Emma Harper (South Scotland) (SNP)

*Emma Roddick (Highlands and Islands) (SNP)

*Evelyn Tweed (Stirling) (SNP)

*Elena Whitham (Carrick, Cumnock and Doon Valley) (SNP)

*attended

THE FOLLOWING ALSO PARTICIPATED:

Professor Angela O'Hagan (Scottish Human Rights Commission)

Dr Luis F Yanes (Scottish Human Rights Commission)

CLERK TO THE COMMITTEE

Emma Johnston

LOCATION

The Mary Fairfax Somerville Room (CR2)

Scottish Parliament
Rural Affairs and Islands
Committee

Wednesday 26 February 2025

[The Convener opened the meeting at 09:08]

Decision on Taking Business in
Private

The Convener (Finlay Carson): Good morning, and welcome to the seventh meeting in 2025 of the Rural Affairs and Islands Committee. Before we begin, I ask everyone to please ensure that their electronic devices are switched to silent. The first item on our agenda is consideration of whether to take items 3 and 4 in private. Do we agree to take those items in private?

Members indicated agreement.

“Economic, Social and Cultural
Rights in the Highlands and
Islands”

09:09

The Convener: Our second item of business is an evidence session with the Scottish Human Rights Commission on its report “Economic, Social and Cultural Rights in the Highlands and Islands”. I welcome to the meeting Professor Angela O’Hagan, who is the chair of the commission, and Dr Luis F Yanes, who is the Highlands and Islands project leader. Thank you, both, for joining us this morning. I remind you that you do not need to operate your own microphones, as someone will do that for you.

We have until approximately 10:30 for questions, and I will kick off. The commission has been seeking the incorporation of ESC rights for quite some time, and we know that the human rights bill is now delayed. Can you tell us how such a bill would affect the ability to meet human rights obligations in the Highlands and Islands?

Professor Angela O’Hagan (Scottish Human Rights Commission): Good morning, convener. Thank you very much for the invitation to come to the committee this morning; we are very much looking forward to a rich discussion on the report. I will let Luis Yanes speak to the technical detail of your question.

Our report demonstrates the significant gaps in people’s everyday lives in relation to their economic, social and cultural rights, and the extent to which duty bearers or public services—those with an obligation to ensure that the rights of all are met effectively across the domains of education, health and access to food, housing and even clothing—are not meeting those rights across the Highlands and Islands. Without incorporation, we are left with a significant accountability gap in relation to duty bearers.

We are also left with a significant gap in relation to our powers of investigation and inquiry, which is why the commission’s spotlight reports are so important. As we have done in this report, they present international human rights standards in a framework that allows us to demonstrate our findings and evidence. That allows duty bearers to look at the gaps in their provision and understand where they need to go from there.

I will let Luis pick up on the substantive point in your question.

Dr Luis F Yanes (Scottish Human Rights Commission): It is important to say that, as of now, good human rights delivery, based on the framework that the report sets out, really depends

on the leadership of different local authorities, national health service boards or the Scottish Government itself. If you have very good leadership in one institution, you might see the delivery of services through a people-centred approach; if that leadership changes or another authority has a different view, you do not get the same type of results.

In our general findings on page 18, we have highlighted the obligations that are attached to the rights: minimum core obligations, progressive realisation, non-retrogression and adequacy. None of those obligations are embedded in Scots law. For example, a local authority or the Scottish Government itself can cut the budget for a service or eliminate it without the necessary consultation or the mitigating measures. None of that is prohibited in law. You are not required to deliver a service, such as a health service, that meets the criteria of accessibility, availability, acceptability or a high level of quality that human rights demand.

We have in our system a mismatch between what we are expected to deliver as a nation under international law—and what we have committed, as the United Kingdom, to deliver internationally for the people of Scotland—and what we actually demand domestically from duty bearers, such as the Government, local authorities and others. The reality is that, without the underpinning of legal duties and the requirement to meet them, you can have a lot of strategies—such as mainstreaming, which the Government is currently consulting on—but you will not necessarily see the change that is needed, particularly for the Highlands and Islands.

We need to take a human rights-based approach and look at the issues holistically. For example, progressive realisation demands concrete, targeted steps of improvement and correct human rights budgeting to allocate the money where the demands and needs are, ensuring that things are neither cut nor deteriorate and that services are delivered adequately. It is essential that all those things, which we currently do not have in our legislation, are embedded in it.

The Convener: When we looked at children's rights not that long ago, there was almost an argument that incorporation was not absolutely necessary and that, if people wanted to do the right thing, they could do it without needing legal pressure to do so. Is it possible to improve access to justice for communities in the Highlands and Islands without that incorporation? If so, how do you suggest that it might be done?

09:15

Professor O'Hagan: I do not know, but our report sets out a number of recommendations on the realisation of specific rights and the specific

obligations on public bodies as duty bearers, and on processes and ways of working. Luis mentioned mainstreaming. On the basis of our findings, we have eight key recommendations in our report about ways for public authorities—whether an individual local authority or an individual health board—to work and engage in their own remit. Scotland has multiple delivery partners and delivery agencies, and it is crucial that they work together.

Our first recommendation is to strengthen human rights law—which, as Luis has said, we do not have—because, without it, there is an accountability gap, as I mentioned in my opening remarks. Of course, public authorities can and should currently be fulfilling their international human rights obligations without domestic law to enforce them. However, such an approach lacks enforcement and accountability. Our first recommendation is about strengthening human rights law and improving access to justice, because, without the legal underpinning, individuals have no recourse. That is what we mean by the horrible word “justiciability”. We need to bring justiciability into domestic legislation so that, as well as being an entitlement in people's everyday lives, those rights are accessible through the legal process. That also requires a level of funding and support through legal aid, which is very high on the commission's list of areas of concern.

Luis talked about meeting minimum core obligations, and our second recommendation is that there is no reason not to meet them. Minimum core obligations are a floor—not a ceiling—below which people's everyday experiences should not fall. The report clearly shows that, in those everyday experiences, minimum standards of access to food, clothing, housing and healthcare are not met. Another recommendation is about the adequacy of service. Are people's needs being met in the context of where they live and what their needs are? Effective intersectional analysis across people's different experiences and sets of needs is required.

Duty bearers can meet their obligations by listening to and acting on what local people have to say. One of the main strengths of the report and our approach is that it has amplified the voices of local communities, including local councillors and other elected officials, who say that they have been raising those issues for some time. Local communities have been saying to Luis and his team, and the commission more widely, that they have felt heard and that their voices have been amplified in a way in which they had not been until now. People are not routinely engaged in the making of decisions that affect their everyday lives. Flexibility and localised policies are ways of working that do not necessarily require legislative

underpinning. They are supposedly behind the intention of all sorts of activities and directions of policy making around community empowerment, community wealth building and community planning—we have heard the word “community” in a lot of the policy making that has come through in Scotland over the past decades—but we are seeing that communities are not engaged in local policy making.

Over many years, I have spoken to many committees in Parliament about effective impact assessment. We need to make impact assessment effective from a human rights perspective and ensure that impact assessments for remote areas and islands are carried out in conjunction with local communities.

As we set out in the framework, there should be specific human rights targets. In developing services and securing their adequate delivery, what targets can be put in place to help duty bearers move on and secure the right outcomes? One of the ways that the correct outcomes for people can be delivered is through taking a human rights perspective to how resources are allocated, spent and evaluated. That can help to secure the progressive realisation of rights and ensure that rights are respected, protected and fulfilled.

There are ways of working that would make a difference, but the lack of legal underpinning means that people are still without access to justice and that there is no accountability for duty bearers.

The Convener: So, the incorporation of human rights is almost a backstop, but it is required to ensure that other policies that might be trying to deliver human rights have teeth, if you like.

Professor O’Hagan: It is the ultimate sanction, in a sense, but incorporation is also a state party obligation for the UK Government and the Scottish Government. Two weeks ago, the members of the Committee on the International Covenant on Economic, Social and Cultural Rights were at great pains to highlight the need for the UK Government and the Scottish Government to incorporate the covenant in full.

Luis Yanes: We want to ensure that we do not have excessive judicial accountability—excessive numbers of cases in the courts—but prevention and the addressing of structural problems. That is really important.

We found a lot of effective casework in which MSPs are contacted by their constituents and issues are raised and solved at that level, but the structural problem is often not addressed. We have worked closely on that with Professor Katie Boyle, who calls it a feedback loop, which is really important. When an individual issue is resolved, the structural problem, barrier or cause of the

problem is never resolved, so we see one person having the same issue over and over again.

Without legal underpinnings to stop that, without legal accountability or the mechanisms to ensure that the systemic barriers are removed, and without what we call guarantees of non-repetition that ensure that issues are not repeated for anyone ever again, we will find ourselves with the continuous failings that we often see. Many of you will see them in your casework.

The Convener: There are two supplementary questions, one of which is about the response that we heard just now.

Emma Roddick (Highlands and Islands) (SNP): It is so lovely to have you both here. In response to the convener, Angela, you mentioned the need for a legal framework for enforcement and sanctions, which could empower people and give them recourse to justice. Is such a framework also important for offering legitimacy and making it easier for those who have every intention of upholding people’s human rights? Would it give them more respect or authority in their organisation?

Professor O’Hagan: That is a helpful way to frame legislative underpinning: as an enabling platform for doing the right thing. It takes a refreshing and positive approach to a human rights framework and the range of tools, such as impact assessments and so on. Such things are often perceived as an additional burden rather than as a way of being able to do the right thing, and a way to make policies in a way that more effectively discharges the responsibilities of public authorities and makes more effective use of public resource.

Ariane Burgess (Highlands and Islands) (Green): Before I ask my main question, I want to pick up on something that Luis Yanes spoke about, which is how the individual problem is solved but the systemic issue is not. That has come through in work that I have been doing in another committee, on the Scottish Public Service Ombudsman. One thing that has come up through that work is what happens to people in trauma and how they go into a kind of head-based system, when what is actually going on is quite a lot of emotional challenges, and there is no space for that. I hear that you are saying that moving to a more human rights-based approach is about addressing the system. Is there space for addressing the emotional or traumatic challenges that people often face when they get hooked by something and cannot get free?

Luis Yanes: Yes, absolutely. Emotional barriers to accessing justice are important. Again, I refer to our work and the work of Professor Katie Boyle in looking at whether one of the barriers to accessing

justice is the emotional or traumatic experience. We have set that out clearly in our work on a human rights bill and, from an international perspective, the routes to remedy that have to be available for Scotland need to be accessible, affordable, timely and effective.

Within the elements of accessibility and effectiveness is the need to ensure that an individual or a victim is properly supported and provided with the necessary means. Do they know what their rights are? Do they know how to proceed? Are they well supported? Do they feel that they are respected? Dignity is essential to the human rights framework. Do people feel that they can go through the process?

In our recommendations on access to justice, we highlighted the number of cases in the past two years that reached the Scottish Public Services Ombudsman in comparison to the number of cases that Highlands and Islands MSPs told us about in answer to our questions, in which we asked them to say, on a weekly, monthly and yearly basis, how many instances of complaints or issues they receive relating to fundamental ESC rights.

We saw a significant mismatch between the MSP responses and the SPSO figures. Of the MSPs who replied to our questionnaire, 82 per cent said that, on a weekly basis, they receive complaints or issues relating to health, whereas the SPSO has had only 60 complaints relating to health in the past two years. Not only can the experience of going to the SPSO be traumatic, but some people do not go at all. That is a challenge: why are people not accessing the formal systems that we have put in place?

Ariane Burgess: The main question that I want to ask comes back to the point that was initially made by the convener on the human rights bill. That bill will not now be introduced in this parliamentary session, and your recommendation is that it be introduced in the next session. Are you aware of any other bills in the pipeline, such as the Housing (Scotland) Bill, whereby we could look at introducing rights in that way? The housing bill is one example, but is there anything else that you can think of—maybe community wealth building legislation?

Luis Yanes: The most important part of the report—and what we hope that it serves to do—relates not just to the evidence regarding the rights of people in the Highlands and Islands; we have also tried our best to make the international legal framework as accessible as possible. In housing, for example, you can ask whether a housing bill meets all the conditions of adequacy. That is to say, does it embed the right to legal security of tenure? Does it embed the need for services to be accessible or for housing to be habitable or

culturally adequate, which means access to green space, sports and cultural services?

In international law, we call all those elements—the adequacy conditions—the normative content of the rights. We would call on the Parliament, as we have done so before, to scrutinise every piece of legislation in relation to those conditions of adequacy, so that it can embed those criteria in different pieces of legislation. If we could ask ourselves those questions, we would see an impact.

The human rights bill was supposed to be the catalyst for doing that. The notion was that a human rights bill would have an impact on any other subsidiary legislation that would come through the Parliament. However, the Parliament could do that now with other pieces of legislation.

Ariane Burgess: Is there any specific legislation that you have in mind, or should we just look at everything that comes through the Parliament? We have only 12 or 13 more months left of this parliamentary session.

Professor O'Hagan: I would answer that question with the same point that I made earlier about it being a way of working. We would expect and encourage the Scottish Parliament, as the ultimate guarantor of human rights in Scotland, to ensure that all legislative proposals are secured in a human rights foundation and that they are about delivering those outcomes for all.

That includes scrutinising the budget that passed this week. Our colleague Ali Hosie wrote a series of blogs to remind the general public and elected members about the links between the allocation and spend of resource and the realisation of not only rights but the outcomes that are set out in the national performance framework. The blogs also took a human rights lens to the relationship between public spending resource allocation and outcomes.

There has also been the removal of what could have been important legislation in addressing social care and healthcare issues, with the stays on the National Care Service (Scotland) Bill and the stay on the learning disabilities, autism and neurodivergence bill.

09:30

In addition to parliamentary scrutiny, the provision and security of legal aid is hugely important in securing access to justice. In September 2024, the commission produced a map of available advice services with human rights content. It is fairly sparse, as you can see. The underpinning services that support individuals' access to justice are lacking.

If I may, I will merge your questions, Ms Burgess. The traumatic effect on individuals, as rights holders, having to pit themselves against the complexities of the leviathan care and social care systems was exposed in our deinstitutionalisation report, "Tick Tock...", which examined the right to independent living and the extent to which individual rights are not being met and individuals are being held in inappropriate care settings for extremely extended periods—for decades. The trauma experienced by those individuals and their families is extensive.

We have seen recent announcements from the Scottish Government on fatal accident inquiries—a hugely traumatic experience for families—and we certainly welcome the Scottish Government's intention to move on that. We would encourage Parliament to engage with that and to ensure human rights realisation in any reform of fatal accident inquiries.

The Convener: That moves us nicely on to a question from Elena Whitham, who is joining us remotely.

Elena Whitham (Carrick, Cumnock and Doon Valley) (SNP): My apologies, convener—the technical issues that I experienced at the beginning of the meeting meant that I missed the first few discussion points.

I wish to explore the structural barriers to justice a little bit further and, specifically, how those relate to the quest for human rights budgeting. We could also think about that issue in terms of the mainstreaming of equalities, perhaps with a gendered lens on it—that is, we need to think about gender budgeting as well. I am really aware of the issue of access to justice for those seeking remedy for domestic abuse, specifically in remote and Highlands and Islands areas. Would either Angela O'Hagan or Luis Yanes comment on that, please?

Professor O'Hagan: I could probably spend much more time than we have just talking about human rights budgeting and taking a gendered lens to budgeting, having formerly been the convener of the Scottish Government's equality and human rights budget advisory group.

We have spent most of the devolution period trying to introduce a human rights lens, with a gendered and wider equalities analysis, to how resources are raised, allocated, spent and evaluated in Scotland. The fact that we are still talking about pilots on gender budgeting some 20 years after the initial pilots is very dispiriting at best. It is about a mindset and a shift in ways of working.

Human rights analysis, human rights impact assessment and taking a human rights-based approach should not be seen as additional or

some kind of overlay to the business as usual of policy making; it should be a way of doing that business and a way of thinking about how rights are respected, protected and fulfilled in the way that resources are raised, allocated and spent. If we are to mainstream equality concerns, recognising the diversity and difference of experience and realities for people, that means ensuring—as you have suggested—that remedy to domestic abuse is effectively funded and resourced. I disclose an interest here, having been a member of the independent strategic review of funding and commissioning of violence against women and girls services. A whole series of recommendations were made in 2023, which I understand have not met with any forceful implementation. Again, that is rather disappointing.

There is no lack of guidance, tools or drivers—the principal driver being the need to ensure that people and their rights are protected in all situations, and that resources are allocated in such a way that those rights are fulfilled. However, we need more effective scrutiny and engagement, with that drive for action from the Scottish Government.

Elena Whitham: I will come back on that briefly. I could also speak about this topic all day, given my background as a Scottish Women's Aid worker.

Do you feel that we are at a point at which we are speaking a lot about the issue but have not quite realised the embedding and mainstreaming of full equalities, including taking a gendered look at the different policy decisions that we make? Will the absence of a human rights bill make that more tricky to achieve? Do you feel that it is the panacea that will help us to get over that hurdle and implement those things on the ground?

Professor O'Hagan: We have to do both things. A mainstreaming approach has been talked about for a very long time, but the practice of mainstreaming is weak and the tools are not used well.

In our submission to the equality and human rights mainstreaming strategy consultation, we again highlighted the use of tools such as human rights budgeting and the existence of the participation, accountability, non-discrimination and equality, empowerment and legality—PANEL principles. We also mentioned the facts, analysis, identification and review—FAIR—approach. PANEL and FAIR are analytical processes to work through the legality, equality, adequacy and participation of individuals in taking a human rights-based approach to policy making.

As I said, there is no shortage of tools or of warm words, but we need to see that shift in policy making. That has to come through and across the

Scottish Parliament in the scrutiny that members undertake. In relation to Government, it has to come across Cabinet and down through directorates. There has to be a clear direction to policy makers at all levels that taking a human rights-based approach to policy making is not an add-on and not just for Christmas but has to be the core way of doing business. It might be a new business as usual, but it needs to be the core approach to policy making.

The Convener: Before we move on to the next question, I note that policy making is, obviously, really important. Do we get that thread running through all policy areas to ensure that the human rights of individuals, particularly those in remote and rural areas, are being addressed? If we consider the national outcomes specifically, there is scant reference to rural areas; however, you could say that there are also other parts of society that do not merit a specific mention. Given the work that you have done, is it a glaring gap that remote and rural areas do not feature more in the work towards achieving positive national outcomes?

Professor O'Hagan: The short answer to that is yes, which is what our report really underlines. The national outcomes and the national performance framework would be significantly enhanced if there were a human rights-based approach to how policies are formulated, resourced and implemented.

There is a huge implementation gap, as we just discussed with Ms Whitham. There is a gap between the rhetoric and the implementation. Some of that is about skills and capacity in public authorities, but some of it is about process. As the report shows, some of it is also about people feeling out of sight and out of mind. Luis Yanes will have more to say on that in relation to rural and island assessments. As the report highlights, people might live in remote areas but their rights and access to justice should not be remote.

Dr Yanes: Yes, I could probably talk for hours about that, which I will not do.

There are two important layers. I will first talk about impact assessment. We do not have impact assessment policies for remote and rural communities, but we have island communities impact assessments for island communities. However, we have remote and rural communities that feel like they are islands within the mainland—that is, they are cut off from the rest of the country at times, particularly at this time of the year. That is a significant gap in terms of rural proofing a lot of the policy and legislation. We can talk in detail about the lack of flexible policy making or about non-localised policy making, which creates a significant barrier to the delivery of services.

Island communities impact assessments have some shortcomings, and it is also important to discuss that. Such assessments do not take a human rights-based approach or consider the impacts of policy or legislation from a human rights perspective—the Islands (Scotland) Act 2018 does not require that. Therefore, if we are talking about mainstreaming, we need to consider that that must have an impact, including on things such as an island communities impact assessment.

The other thing that we heard loud and clear from communities and from the Western Isles Council is that island communities impact assessments are often done without any consultation with the communities—or even with the council at times. People in Edinburgh are developing island communities impact assessments that they deem to be appropriate for an island community without engaging directly with the community. It is no wonder that there are considerable shortcomings or that an impact assessment might have shown that something would not have an impact but then did.

The other issue has been the demand for retrospective island communities impact assessments, which the legislation allows for. We see that, at times, the Government does not want to do those retrospective assessments. Therefore, if we were to do a thorough review of legislation and policy across Scotland, we would probably want to change many of the ways of working, given that many policies and regulations are not really island proofed in the way that the Islands (Scotland) Act 2018 would have expected.

The Convener: We will certainly come back to that issue, and I hope that I have not stepped on any members' toes with that question.

Emma Harper (South Scotland) (SNP): Good morning to youse both. It has been interesting to hear what you have said so far. I am interested in your methodology and how the information was obtained. The committee's papers say that 146 individuals were interviewed across multiple locations. I think that there were about 20 locations across the Highlands and Islands, which would mean that, on average, about 7.3 folk showed up at each session. I know that it was a mixed methodology, because there was desk-based work and interviews, and there were probably phone calls and so on.

I would be interested to hear about participation in the process. The people who went to the sessions self-selected, and, as MSPs, we know that people come to us and to our caseworkers when there is a problem—they do not come to us when everything is going okay—so I am interested in hearing about the methodology and about how the information was gathered.

Professor O'Hagan: I will let Luis Yanes speak to the detail. It was very much a mixed method, with structured interviews and open conversations. The team was visible in locations and started up informal conversations with people about their everyday experiences. The methodology structure is set out in the report. As you suggested, that involved desk-based research, structured interviews, informal discussions and a sift of MSP's case loads and complaints to the Scottish Public Services Ombudsman.

Luis Yanes, Ali Hosie and I, along with other members of the commission, are going back round the area. Luis and Ali have been meeting MPs, MSPs and council members, as well as holding structured community empowerment events, which I think were attended by between 15 and 20 people. Luis will be able to give us the detail.

Dr Yanes: We explain the methodology in detail in appendix 3 of the report. I should use this opportunity to say that the methodology has been strongly commended by the United Nations and other international actors. We have tried to change how a national human rights institution works in a way that enhances people's views, which is often not necessarily the way in which NHRIs gather information. At times, that might be because there are significant data gaps. It is easy to say that we are meeting our minimum core obligation if no one assesses the data or provides sufficient data.

On the process, we used a desk-based research approach, which looked at all the available information and determined the significant gaps—the areas on which we did not have sufficient information. We mapped out all the places that we wanted to visit across the Highlands and Islands and identified specific organisations, campaigners, defenders, teachers, crofters, advocates, nurses and advice givers who are working with citizens advice bureaux, for example, with whom to have semi-structured interviews. Those are in the report, including the questions that we asked.

09:45

We did not usually ask people if they could tell us what their human rights issues are. We asked them specific questions, which included, "Can you tell me where you buy food? Is it costly? Can people buy it? How far is it? Is it always there? What happens when the ferry doesn't work? For how many days is there no food here? How much does a house cost? What salary is needed? Could you buy a house tomorrow? If not, where can you rent?"

Anecdotally, most interviews started with people saying, "I probably can't say much about human rights"—three hours later, the interview ended.

There were around 130 interviews, most of which were one-to-one interviews; on some occasions, there were a couple of people in the room. On average, an interview would take between an hour and a half and two hours, and often three hours.

On top of that, there were informal meetings. We would usually speak with people in the street; they were not counted among the 146 people we interviewed, but they were included as part of the data that we collected on the street. That was then broadened out by interviewing many of the caseworkers for MSPs across the Highlands and Islands to determine what type of information they received. That was then cross-referenced with information that was received by the SPSO and the historical data that we had available to us from the past six years. We triangulated all of that.

One important method that we used was to say that an issue was raised if it came up in at least three different interviews. If we could not verify something because only one individual had said it, it might not have been shown in the report. There had to be at least three or four different instances in which an issue was raised independently; it was then identified and evaluated, and it will appear in the report.

Emma Harper: I am also a member of the Health, Social Care and Sport Committee, and we just did an inquiry into healthcare in remote and rural areas. The big issues that came out of that inquiry included access to housing and recruitment and retention. However, a lot of people were not very happy about the use of the term "remote and rural", because they felt that it made them seem like the "other" who is seen as being "somewhere over there" rather than being part of everything. That committee even heard from proponents of an agency being created to advocate for people in remote and rural areas, not just in healthcare. I know that the Scottish Government has created a national centre for remote and rural health and care, which was launched in 2022. Do people know that that centre of excellence exists and that it has been created in order to support healthcare?

It has also come to my attention that people do not really talk about the Scottish graduate entry medicine—ScotGEM—programme, which is tailored specifically in order to get rural general practitioners in the Highlands and in the south-west of Scotland. I am interested in hearing a bit of feedback on those healthcare aspects among the people who were interviewed—for instance, whether they were aware of the national centre for remote and rural health and care, or of ScotGEM.

Dr Yanes: The use of the phrase "remote and rural" can be contested at times. We have said strongly that "remote" is a perspective—for many communities, Edinburgh and the Government are the ones that are remote, while those communities

have existed in the same place for years. As Angela O'Hagan described very well, the fact that they are remote to Edinburgh or to the central belt does not mean that their rights should be removed in any way.

However, I think that it is important, given some of the responses relating to how rural housing has been built, for example, that we use the category of "remote and rural". For example, the Government has responded to our report by saying that 10,000 houses have been built in rural Scotland. Where are those houses being built? We visited many communities where there has been no social housing built since the 1970s. Are those houses in rural Scotland outside the central belt, 20 minutes away from Inverness or in some of the communities that are experiencing significant issue with depopulation? The usage of the term comes from accepting or trying to identify some of those barriers.

The point about knowledge is really important, and it relates to Ms Whitham's question about barriers to accessing justice. We identified that the lack of knowledge of people's rights is a significant barrier—and that is not only a lack of knowledge about the institutions that are there to promote or protect rights, or about the opportunities that are available. Many of the reasons that people say, "I don't think I can speak much about human rights issues in my community" are to do with a lack of knowledge. Thinking of housing, health, social care or food as human rights is not well embedded.

Just two years ago, we published our second iteration of "Attitudes to Human Rights in Scotland". We found that, in the Highlands and Islands, at least 30 per cent of the population is disengaged from human rights, and that is often because of a lack of knowledge about what human rights mean.

The proposals for a human rights bill from the national task force for human rights leadership, of which we were a key member, included the need for a national campaign to promote human rights across the country. What are the efforts to explain to communities what their rights are? What mechanisms have been available? There are mechanisms available, but most people do not really know that.

One big thing that we heard in many of the interviews was a thank you just for being there, perhaps because no one had visited them in a very long time. There was not even much desire to know what the report would say. It was just to make sure that we were there, listening to them and promoting human rights. That really gives you an idea of the lack of knowledge or how much many of the communities feel disengaged from national Government or policy.

Emma Roddick: That is really helpful context on methodology and the way to ask questions that gets evidence out of people.

On the education section, there are no concerns, but I wondered whether something was missing from the methodology. As a Highlands and Islands MSP, I would have expected Gaelic and access to culturally appropriate education in the Gaelic medium to come into it.

Dr Yanes: One interesting thing that happens when you publish a report such as this is that, after publication, you get more and more information. During our work, we heard some concerns in relation to the Gaelic language, but those were not sufficient for us to assess that. Another example of that is that we did not hear many concerns in relation to water and sanitation—with the exception of issues about public toilets—and not enough for us to assess that. We now have a significant amount of data in relation to those issues, so our assessment would probably have been different.

That gives me the opportunity to say that the commission is committed to a monitoring cycle. As we have said, we will work in South Scotland in the next few months, and we will re-evaluate the Highlands and Islands in three years' time, so there will be opportunity to reassess the available evidence.

We wanted to embed what the rights holders said, so it could depend on the challenges that were or were not identified by specific communities. Also, we did not necessarily engage with children and young people, given the mandate that is shared with the Children and Young People's Commissioner Scotland. Our assessment is very much based on the views of different organisations and teachers but not necessarily those of children, as that would have duplicated the mandate of the children's commissioner.

Emma Roddick: That makes sense.

Professor O'Hagan: If you read the section on education in conjunction with the section on rights to cultural identity, you can see the interplay between them. What we saw and what we said in the report is that the minimum core for education is being met, but there is a right to education and that needs to be read with questions around whether adequacy, provision and so on have rolled back in recent times.

When we look at cultural rights, we see that there are concerns about the accessibility of their enjoyment, so those two sections need to be read in conjunction. That is not to say that Gaelic was raised in the triangulated way that Luis Yanes talked about, but there is a read-across between those interlinked rights.

Emma Roddick: Is work going on around how those questions are formulated? I imagine that it is difficult to ask something that does not inevitably lead to the interviewer's expectations being brought out of the person. If you are asking about housing and the cost of food, people will talk about not having access to affordable food, but they might not mention Gaelic.

Dr Yanes: Absolutely. This approach is a different way of working, not only for us in Scotland but internationally, which is why we have been called on many times to explain our monitoring model to other national human rights institutions—NHRIs—across the world and to the United Nations. Because it is different, we said that we were piloting the model or approach.

Only a few weeks ago, we were reflecting on what we want to fine tune and improve, what questions we did not pick up that we need to pick up and what other evidence is coming out. We would welcome conversations with MSPs such as the committee members to tell us, for example, that it would be great if we could include particular things or engage you in the process, because we are trying to embed that in a more permanent and sustainable way of working. Of course, we will identify gaps that we want to reflect on and on which we want to improve over time.

Tim Eagle (Highlands and Islands) (Con): Good morning. It has been a really interesting discussion. I have to admit that I have just been looking up your briefing papers on human rights budgeting to try to get it into my head. I might take you up on the offer to meet you separately to go through some of that, because I am struggling a wee bit to understand how human rights come into the national performance framework and national outcomes and then into delivery within the financial envelope that we have. I hope that, one day, I will get my head around it.

My question is about the Scottish household survey. Interestingly, there was broad satisfaction across Scotland, in rural and urban areas, with services such as schools and health, although the satisfaction rates for public transport in rural areas were suggested to be worse.

How did you factor other surveys, such as the Scottish household survey, into your research? Do you have any comments on the comparison between your work and the household survey?

Dr Yanes: The biggest challenge that we have with many of the data that are published nationally, including the Scottish household survey, is how much the numbers hide some of the issues.

As researchers, we know that quantified methods can hide away the realities of smaller groups. Given the population of Inverness

compared to the rest of the population of Highland, the satisfaction rate that you get for the population of Inverness will hide away a limited smaller group in Kinlochbervie, for example. That is one of the biggest concerns.

We use the survey as part of the contrasting element, but we are looking at dividing the data in a way that looks closely at more remote communities, because there is a significant gap. Only last week, I was discussing with some of the depopulation officers in Lochinver and Ullapool how, if you look at depopulation across Highland, it does not look that bad, but, if you look at significant pockets of Sutherland, it is dramatic. Because Inverness is growing, depopulation in the Highlands is not necessarily a concern. If you look at Kinlochbervie, Lochinver, Ullapool or Tongue, that concern varies.

We were conscious of using the household survey data to contrast what we were looking at, but we were also conscious of not overusing it and so undermining what the testimonies of people in different communities told us.

Tim Eagle: It is an interesting point that we hide smaller groups because of a bigger subset. Perhaps I made the wrong assumption, but I thought that we would factor that into such research. However, your evidence is that we do not. Your research allowed smaller groups to have a voice, which otherwise they might not have had. It might not even be in Inverness. Elgin or Dingwall, for example, have slightly larger populations that are significantly bigger than west coast villages with a handful of people.

Professor O'Hagan: We absolutely need such granularity and to recognise that there is a difference between different populations. As we progress through the cycle of the project around Scotland, we will be able to explore what differences exist. We know that there will be differences—we have already highlighted those for the Highlands and Islands—but the question is what differences there are between different parts of Scotland. To what extent does remoteness play a part? Are the same issues relevant and live in people's everyday lives and experiences in different parts of Scotland? Are there different reasons why transport or access to housing are different?

10:00

Even in this report, we see that there are differences in availability of housing and the ability to access it. To go back to Ms Harper's point about the healthcare workforce and housing, if housing is not available, people cannot take up jobs. If housing is available and there is a job, but there is no general practitioner or primary school,

that does not support a family. Information on that interconnectedness is not immediately available from quantitative databases, so qualitative back-up is needed.

That is now very much part of our approach at the Scottish Human Rights Commission: our current strategic plan, as approved by Parliament, has a very strong participatory element. I will cite one of the strongest quotes in our strategic plan:

“Any meaningful commitment to human rights must start from the ground up, with recognising the humanity of the people standing beside you.”

That immediately dispels the notion that human rights are somehow remote from our everyday lives. We must take that experience-based and reality-based approach to the realisation of rights.

The Convener: Baseline expectations will be quite important. The Scottish household survey showed levels of satisfaction, but was that in relation to what people thought expectations were? I will never forget a former chair of Dumfries and Galloway NHS Board saying that people who live in a certain community—I will not mention which one—“shouldn’t expect that”. In other words, if people move to the area, they should not expect to have a GP or dentist.

Are some of the levels of satisfaction based on what people think they should expect to have? Where we see satisfaction on schools or transport, is that based on someone who lives in a small village thinking that they cannot really expect the bus to come any more than once a day, or they cannot really expect to see a GP without having to travel 50 miles, for instance? If everybody was baselined and they all had the same expectations, those levels of satisfaction would be significantly different.

Professor O’Hagan: Human rights are universal, and everybody should have access to the same adequacy, accessibility and quality of service in order to realise their rights.

There is a quote in the report from a community development trust representative, who says:

“[We] recognise the implications of living rurally—the community don’t want all bells and whistles; [but] the bare minimum is currently not being met and that is the issue.”

I think that that answers the point. People are not asking for any more than the bare minimum, because that bare minimum does not exist in all areas of their rights and in all areas of service delivery.

Dr Yanes: There is a gap in people’s knowledge of what their rights are in relation to housing, for example. They might be satisfied within what they are being provided, because they do not know that their right to housing should include a habitable, warm, accessible, culturally adequate, affordable,

well-placed and well-serviced house. They therefore accept the reality.

Nationally, different actors have told rural communities over time about what they should expect, and their expectation is therefore managed in that sense. Historically, people have come to accept that that might be a reality.

We hear people in many communities saying over and over that they pay the same tax as people do everywhere else. They pay the same council tax and do not get a discount, but they do not have the services, because they live rurally, so why are they not being provided with the same as people in urban areas? That is a question for national Government to reflect on.

The Convener: We move to questions from Rhoda Grant.

Rhoda Grant (Highlands and Islands) (Lab): I have a supplementary question on that last point. I do not think that people expect to get the services that are provided in urban areas or an accident and emergency around every corner; what they expect is services that fit the purpose of rural communities. When services are designed with rural communities, they work.

I do not know how we persuade decision makers to factor in the needs of rural communities. For example, I do not think that people are aware of the new centre for remote and rural health and care, which Emma Harper talked about, because they have seen nothing tangible come out of it—they have not seen service design that fits. Do you have any thoughts on how we push that forward and ensure that the policy makers are aware?

Luis Yanes: It touches on one of our recommendations, which is on the lack of not only flexible and localised policy but creative policy making. There is a lot to learn from Nordic countries, for example, in relation to how remote and rural communities are provided with integrated care, different planning consent permissions for housing and different healthcare provisions. We do not seem to be learning from those models.

A lot of our national policy effectively becomes an obstacle to the realisation of rights and the provision of services. An example is that planning consent lasts for only three years but finishing a social housing building might take six, seven or 10 years on Shetland, because of the lack of sufficient staff to build the houses. Therefore, a housing association must re-evaluate every three years, re-ask for planning consent, change its budget and change the housing project based on that, and so on. Integrated social care with adult and young care has worked in Nordic countries and Alaska, but our legislation and regulation in relation to the provision of care limits that.

What we found in, and heard from, a lot of communities is that the historical resilience of many of our communities is slowly being eroded and is disappearing. They used to be able to provide for themselves because the local authority was not able to provide for them; now they are told that they cannot do so. Therefore, they are either not getting the service or not being allowed to provide the services in their own terms, which creates a significant obstacle in the delivery of many other services that can be available.

Rhoda Grant: I will turn to the question that I wanted to ask. The report states that we need urgent action on homelessness, on hunger and on “quality sexual and reproductive health services”.

Whose job is it to address that? Who should be doing it? Are you seeing any improvements or action to meet those urgent needs?

Angela O’Hagan: I put on record our thanks to Rhoda Grant for her members’ business debate on the report. That was the first time that a report of the Scottish Human Rights Commission was the focus of a debate in the full chamber—bringing that full parliamentary scrutiny to the report was very welcome.

To link both your points, although people might not expect an accident and emergency provision on every corner, the obligations are to provide adequate, accessible and appropriate care. That links to your second question about who is responsible: we have multiple delivery agencies with responsibility, and our report underpins the point that dialogue needs to be improved and that we need interconnected ways of working between service providers. We appreciate that we have limited resources, but it is about how to allocate them and, with those limited resources, design services in a flexible way that is responsive to the circumstances in which people live in the Highlands and Islands.

There needs to be an acknowledgement that it is not acceptable to have to travel in very difficult circumstances for acute maternity and obstetric care, and it is not acceptable that there is no forensic medical service in the Highlands and Islands to support victims of sexual assault. That is degrading and inhumane, and it needs to be the starting point, instead of just saying, “Well, this is the envelope that we have and this is the way in which services are designed. If people fall outside that, we are very sorry, but we cannot do much about it.” We need to start by looking at how we ensure that everyone’s rights are respected, protected and fulfilled, and that means taking a human rights-based approach and making sexual and reproductive health and mental health urgent areas of concern.

Picking up on the word “resilience”, which Luis Yanes just used, I would say that the resilience of communities in accessing services, campaigning for local services and bringing their needs to the attention of local delivery partners has been immense. I come back to Ms Burgess’s point about trauma: as members well know from your case loads, people are exhausted from trying to bring forward these issues in a way that prompts a combined public service response to rooflessness and homelessness. Such a response needs to address housing in a systemic way, because, as Ms Harper has touched on, it is linked to many other aspects of people’s everyday lives and their economic, social and cultural rights. All that needs to be seen as intertwined.

To do so, however, will require flexibility from public authorities and improved joint working; I do not want to characterise the way in which public services might work, but there needs to be a more collective approach. I know that there have been suggestions in that respect, and that there are different ways of working, with unitary authorities being established or local authorities and healthcare being brought together. Those are political questions that different parties and public authorities will have different views on; in our recommendations, we have tried to set out not just what the legal obligations are but what the ways of working need to be. They have to take into account and engage with local people and their needs in a meaningful participatory way; they have to listen to communities; and they have to produce flexible and localised responses that take a human rights-based approach.

Rhoda Grant: One issue that I am interested in is the right to food; in fact, I am looking at legislation that will enshrine the human right to food in Scots law. Are there other things that we could be doing now to ensure that people can access their right to food? The issue was mentioned in the report, but how should we go about addressing it?

Dr Yanes: We have seen that the levels of hunger are not as dramatic as they could be, because of voluntary intervention: community groups, churches, food banks and others have been able to provide the support that is needed. However, that has come with very little local or national Government action or support. With a human rights approach, it is the obligation of the state—that is, national and local government—to respond; it is not for charities, volunteers or churches to support people with their right to food.

We welcomed the Government’s consultation on a strategy to end the need for food banks, and we welcomed the cash-first approach when it came, but we have not seen sufficient advancement in that respect or the types of measures that are

being reflected. At an international level, there are countries that have adopted different models of food support, with, for example, specific cards that can be used only to buy nutritional food. That is a cash-first approach—although it is not actually cash; it is a card—and it addresses some people's concerns about the potential use of food vouchers.

Creative solutions are out there, and there are specific measures that the Government could bring in if we were to look internationally. However, since the consultation on that policy, we have not seen sufficient—or, at least, effective—action in the past year or so.

10:15

Rhoda Grant: You mentioned a couple of international examples that might be worth following. You talked about Nordic countries. Is Norway or another country doing all this better than us? I am aware that Nordic countries provide much better quality public services than we do. They pay higher taxes than we do, but, in return, they have a much higher basic standard of living. Are there any examples that we should look to follow, understanding that we might not have all the tools at our disposal?

Dr Yanes: It depends on the right, on the service and on the policy, but there are a lot of examples, and they are often in developing countries. In relation to food support, for example, Colombia, Costa Rica, Peru and Venezuela have implemented really good examples of card schemes. We can look at our neighbours, but we can also look further out at some of the measures that it is possible to implement, including in countries with significant economic challenges.

We recognise the standard of living and the level of budget that some Nordic countries can provide, but there are developing countries with significantly fewer resources than we have that provide better economic, social and cultural rights for their citizens, including indigenous peoples and those in rural communities.

Rhoda Grant: Wow. That is a bit of an eye opener.

Professor O'Hagan: One of the obligations on state parties is ensuring the maximisation of available resources. That takes us into fiscal policy and revenue-raising territory, and the issue of how public finance and resources are generated at the local and national levels as well as how what can come into the pot is maximised through fiscal policy and action on tax evasion and tax avoidance. State parties are required to ensure that they take all reasonable steps to maximise the available resources to secure the progressive realisation of rights.

The Convener: I hate to have to do this, but I want to make you all aware that we are more than three quarters of the way through the session and we are not even halfway through the questions. I ask members to reflect on whether your question has been answered. That will be the case in some instances. I am not going to ask for any supplementary questions at the moment, but I will bring members in if we have time at the end.

I am going to move straight to question 6, which is from Evelyn Tweed.

Evelyn Tweed (Stirling) (SNP): You have touched on quite a lot of the things that I wanted to ask about, but I will ask whether you want to say more. The duty bearer's role is important, as you highlighted at the beginning. Can you say any more about the guidance that is available to help them to do a good job and to achieve good outcomes? What is your role in that and how do you support them to ensure that they have their human rights?

Professor O'Hagan: There is a lot more to say on that, but I will try to keep it brief. We have structured the report and the approach to the methodology of the project and the research taking the international standards and what the CESCR has said over the years and putting it into the red-amber-green framework that you can see throughout the report. That shows the requirements and the gaps, and, now that we know where the gaps are, it gives us a prognosis and lets us plot our way out.

The report is designed in such a way as to be a guide for public authorities and duty bearers, in addition to the plentiful guidance on human rights budgeting on the Scottish Human Rights Commission website, along with a range of other supplementary tools on taking a human rights-based approach using the PANEL and FAIR principles—that is, the participation, accountability and the non-discrimination and equality, empowerment and legality principles; and the fact, analysis, identification and review principles.

Our role is to exercise our mandate, limited as it is, to raise awareness of human rights, to promote human rights and to educate on human rights. Our legal powers are limited and we cannot provide advice to individuals. We have powers of investigation and inquiry, which are both quite expansive and quite constraining, because the scale of investigation and inquiry is not one that we can meet with our current resourcing levels or the interplay with our other powers.

We are quite limited, so we are doing what we are doing now, which is improving the primary evidence base, bringing it to Parliament and supporting Parliament in its scrutiny. We are also engaging with rights holders and duty bearers in

order to build knowledge, capacity and the use of human rights frameworks so that it is a more usual, everyday way of framing people's experience. That is the intention behind the report.

Dr Yanes: As Angela O'Hagan has just said, we are revisiting the communities. We have been providing support and empowering human rights defenders, community workers and charities to use the findings and the framework of the report. We have been meeting local authorities and NHS boards and some housing associations as well. We have just been to Shetland and Orkney, and we have gone through Caithness and Sutherland. I have just flown in from Stornoway.

We are also getting a lot of requests to help councils in their capacity building, knowledge, skill sets and policies. The reality is that, with our current staffing and resource level, it would be quite impossible for the commission to do that in the way that we are being asked to do it. That reflects on our role as a national human rights institution and our capacity to meet some of the demands.

Emma Roddick: The SHRC puts a lot of importance on speaking to people with lived experience and suggests that duty bearers must do so in order to be successful. Can you say a bit more about why that is important?

Professor O'Hagan: It is foundational to our approach and, as I have said, it is one of the cornerstones of our strategic plan. We have just approved our participation strategy, which will be published next month. It is about ensuring that participation is a way of working for the commission, which is working alongside, with and through a range of stakeholders. It is about amplifying the voices of rights holders and improving their knowledge and understanding of their rights. That is consistent with our mandate to educate around human rights and to promote awareness of human rights.

Part of our participation strategy will also include what we hope is moving towards best practice—certainly, good practice—which is the inclusion of participation payments. We recognise that many of the consultation methods that are used in policy making rely on people's good will and personal contributions of time and travel to participate in consultation.

Our "Tick Tock..." report on deinstitutionalisation puts into plain view our way of working alongside people who have experience of care settings, their families, other condition-specific or advocacy organisations, other research organisations and duty bearers in a project group. We work with human rights defenders and people with care experience and their families who are seeking to secure their rights, and we produce a video and a

toolkit that others can use to help them to navigate the system. That is very much becoming the character or hallmark of the SHRC's way of working.

Emma Roddick: In a couple of places in the report, it stood out to me that the information seems to come from professionals and those who offer support. That maybe goes back to methodology a little bit. In the addiction section, there is some really interesting evidence around the impact of services not being there and the loss of services, but there does not seem to be much from people who are living with addictions. At that point, did you realise that that was an issue? Was that an opportunity to seek out lived experience and make sure that those voices were included in the report, as well as those of professionals?

Dr Yanes: One of the things that we were concerned about in our ethical research framework was ensuring that we were ready to support people in particular situations of vulnerability. We were restricted by our limited mandate and powers. Given that legislation prohibits us from giving any advice or support to an individual, we were quite concerned that, if someone came to us with a very serious concern, our response at that stage would be to say, "Thank you very much—good luck." Such a response from a national human rights institution would have been quite irresponsible, so we needed to ensure that we took the right ethical approach by using those who spoke directly to those people day to day, to enhance their voices. At times, we used conversations in drug recovery hubs when someone had brought in a couple of people with them. That was the issue with the framework.

We are reflecting on how we could bring more people into the room to have those conversations and how we can have a sufficiently trauma-informed mechanism for interviews. We have been providing training and support in that regard. However, when we started that pilot work, we did not feel that it would be sufficiently responsible to do things in that way.

Emma Roddick: Thank you.

Beatrice Wishart (Shetland Islands) (LD): Good morning. I am interested in the discussion about what we can learn from the Nordic countries. In Shetland, we often look across with considerable envy at how things seem to work in the Nordic countries. I am thinking about the impact of national infrastructure, such as transport infrastructure, on the delivery of health, housing and education services. Can you say anything about the importance of national infrastructure? For example, the tunnel connections in the Faroes mean that services can be delivered more easily,

as they are taken away from the centre and delivered to people in more rural areas.

Professor O'Hagan: I agree on the central importance of integrated transport, because so much flows—sorry, that was not meant to be a pun—or stems from it, including the rights to access food, clothing, education and healthcare and the right to cultural identity, so it is integral and pivotal to the fulfilment of rights and to their full realisation.

That mindset should come into our thinking on infrastructure. We should ensure that people not only have those rights but can exercise them, so a shift in mindset is needed. Rather than starting by saying that a very big project will cost a lot of money and asking whether we can provide it, we should consider the purpose of the project and what we are seeking to achieve. We are seeking to achieve the realisation of people's rights and to secure their wellbeing and the sustainability of individuals and communities.

Dr Yanes: On ensuring the accessibility of services, we should think about not only the immediate response—what we can do now—but long-term solutions. To meet local needs in Shetland, for example, the best approach might be to build tunnels between the islands, as has been done in the Faroes. On Monday, I had a discussion on Stornoway, in Na h-Eileanan an Iar, and the demand from people there was not for a big ferry but for two medium-sized ferries to ensure connectivity. There should not be a national response to ensure transportation; it is about what works at a local level.

Free travel for young people is a well-commended policy, but many people we spoke to were frustrated that there is no transport for young people to use free of charge in the Highlands and Islands, so what support is being provided for them? Given the lack of free transport, is there an alternative? Could a local mechanism be provided? We do not see such an approach, and that is a fundamental issue.

Beatrice Wishart: Another barrier is the cost of travel for those who want to get on to the mainland from the islands. That is more an observation than a question.

In my constituency, there is a feeling that island communities impact assessments, which we have touched on, are a bit toothless and do not mean much. How could they be improved? I understand the call for expanding them to cover areas in the Highlands and other rural areas. How could that process be improved to make the impact assessments less toothless?

10:30

Professor O'Hagan: I will start and will let Luis come in on the specifics of the islands and rural impact assessments. We have the human rights impact assessment, the equality impact assessment and the island communities impact assessment. In my experience of many years of trying to embed those processes and support Government and duty bearers to implement them, those policies and tools are seen as additional rather than enabling. Indeed, they are not seen as ways of doing things that all point in the same direction—ultimately, the quality of people's lives and the securing of their rights.

Those processes ask a range of questions to ensure that the policy and the resources that are aligned to it have the outcomes that people need and that the policy is intended to have, so they should be business as usual instead of being seen as—I am trying to think of a polite word—an additional layer of bureaucracy that overlays business as usual. It is about shifting that mindset to make those ways of working integral.

We have been talking for 20-plus years about mainstreaming strategies, and those assessments are tools that help with, and activate, that mainstreaming. Mainstreaming is activated in policy and resourcing. It becomes a full circle, because we talk about policy and resource in the round.

I will let Luis talk about the specifics on islands.

Dr Yanes: I can briefly suggest a couple of things, one of which is that a human rights-based approach should be taken. At the bare minimum, people in the community should be consulted before an assessment is made, which we do not see—at times, even the councils are not consulted, which would be even less than the bare minimum. People in island communities should be consulted before a policy is assessed to determine whether it works.

For us, there are questions about how a national Government operates. We can ask ourselves whether the islands team of the Scottish Government should be based on an island and whether there should be a hub of the Scottish Government operating in some of the island communities. Having done and led this work myself, I am sure that an official living in an island community would directly see an assessment quite differently because of their own experience, but that is not happening.

Although participation is key, I would also recommend that the committee play a role in the type of rural or island assessment that I can do by taking the time to scrutinise some of the policy and legislation going through Parliament, in order to give a reassurance that those things have been

island proofed and scrutinised well. You might not have sufficient time to do that thoroughly with every piece of legislation, but one session for each piece of legislation might provide a welcome opportunity to take evidence around the lack of retrospective island communities impact assessments. A specific working group model could be created to reflect on the wider national policy that is not working and that might require modification. Various mechanisms are available to enable the Parliament to reflect on the issue.

Emma Roddick: What evidence is there that duty bearers are creating those target objectives that could progressively improve human rights? What is your feeling about how much resource and finance is being put into that?

Professor O'Hagan: The evidence in the report suggests that those are not the usual ways of working—if that is not too subtle. We have heard very clearly that island communities impact assessments—where and how they are conducted—are not working. Some local authorities have suggested that they do not use the phrase “human rights” but that they take a human rights-based approach. We would need to see evidence of human rights impact assessments being used and informed by a range of data, though I am not sure in what way. Although that might well form part of future research and explorations, the processes themselves and those practices in duty bearers were not the focus of our report, which focused more on the extent to which local people were involved and participated in decision making.

Dr Yanes: We recognise the various different and significant strategies by the Scottish Government that constitute target-led and concrete steps towards progressive realisation. Some of those are recent, so it is difficult to assess whether they have been effective and expeditious. Others are welcome but have taken a significantly long time to develop. You may have had a housing crisis for a long time, but it is only now that we are seeing a strategy.

We are concerned that some strategies do not necessarily take a human rights approach, so, although they are welcome, there are questions from a human rights perspective about whether they are framed within that mandate. Also, are they strategies or targets? Are there clear and concrete steps towards meeting those targets, and is it clear what level of financing or budget has been put in place to achieve those steps? Is it clear who is accountable if those targets are not met? We see a lot of strategies, but we do not necessarily see targets.

Emma Roddick: What are the biggest problems with the existing targets? Are they not written far

enough in advance? Are they the first things to go when challenges occur?

Dr Yanes: One of our recommendations is about listening to communities. We see a lot of consultation about decisions that have been made, but many communities are frustrated that those consultation exercises are tokenistic. A human rights-based approach would do things the other way round and would start by consulting the community to find out what the needs, issues and potential solutions were. It would ask what worked for that community and what could be different. Government or local authorities would then reflect and envision the options before returning to say what those options were and to consult on what the community wanted to be done.

We often see decisions being made by authorities without the people's involvement. Those decisions are carried through and then consultations are done, with many communities feeling that they are forced to say yes. If they say, “Yes, but,” that is taken not as a disagreement but as them saying that everything is fine. In the past few weeks, there has been significant frustration about some decisions and consultations related to the tourism levy. In some communities, the tourism impact is not caused by the accommodation, which tends to be small bed and breakfasts, but relates to camper vans and their impact on roads. That seems to be an example of a decision being made and consulted on instead of people in the Highlands and Islands being consulted first, to find out what their real challenges are, and then a policy being developed on the basis of their actual needs.

Professor O'Hagan: I will answer quickly, because I can see that the convener is keen to move on. Taking a human rights-based approach means looking at what the targets are, how they are formulated and what the indicators are. We would advise and advocate for something that is required within the human rights standards, which is that indicators should be framed around structure, process and outcome. Any approach taken should have those indicators, and there should be clear and measurable elements looking at whether the structure is appropriate and involves people adequately and accessibly.

The process should be accessible, understandable and clear, and it should integrate human rights analysis through policy making and resource allocation. We should also look at whether the outcomes achieve what the targets said we wanted, and, if not, why not. We can work back through process and structure to see whether those are in the right place, because that is what has an effect on the outcomes. There is a clear pathway in the international human rights standard.

The Convener: The questions that you raise there should, by default, be in every questionnaire when we have Government ministers in front of us. That is very helpful.

We will move to questions from Elena Whitham.

Elena Whitham: I will be brief. We have already touched on human rights budgeting. Does the commission think that there is enough resourcing out there to allow effective human rights budgeting to be done? I am thinking specifically about resourcing for local authorities and about the ways that they directly resource some of our many other delivery agencies. How can we ensure that we achieve human rights budgeting within resource allocations?

Professor O'Hagan: Human rights budgeting is a way of working through resource raising, allocation and spend. We can all challenge the size of the pie, but it is a process and an approach that ensures that decisions are made and policies are formulated while taking a human rights-based approach.

As I said earlier, there is an obligation to ensure the maximisation of available resources, which requires thinking about whether the pie is big enough and how to expand available resources. It also requires thinking about whether the decisions that are being made on raising public resources are consistent with that obligation and with a human rights-based approach, to ensure that rights are protected, respected and fulfilled.

Elena Whitham: That illustrates well the issue that I have come across over many years. When we talk about the size of the pie, we forget about how the pie is divvied up and how organisations are responsible for divvying it up in a way that reflects the needs of the people they are seeking to serve. It is helpful that we have that on record in the committee this morning. Thank you.

Ariane Burgess: This has been a brilliant conversation, and I wish we had a few more hours to go into some of the detail that has started to arise in my mind. The intention now is to share the findings across the Highlands and Islands and to enable local communities to use the report to defend and—to use the word that I heard you say—“access” their rights. I would be interested to understand how you plan to use the report to help enable communities to defend and access their rights.

Professor O'Hagan: Luis Yanes is in the thick of that at the moment, working through the report with communities across the Highlands and Islands. We will take the lessons that have been learned about our methodology and our questions from the feedback that we have received from human rights defenders and duty bearers in the Highlands and Islands, and that will inform us

when we move into the south of Scotland, later this spring.

Over the next few years, we will move around Scotland with this approach, so that, at the end of the period of the strategic plan, we will have an overview of Scotland from which we can see any differences that emerge as well as any common themes. At that point, we can have a clear understanding of the extent to which we are building knowledge and a rights framework is being used by duty bearers and rights holders.

Luis Yanes can comment on the specifics of how we are structuring the community empowerment events.

Dr Yanes: We are travelling to everywhere that we went to before. We want to make sure that we are not extractive and that we are empowering people to use the findings of the report. We are very much in the middle of that—I will be in Benbecula tomorrow and in Barra on Friday. We want to make sure that the communities and anyone who is interested, particularly those who can be advocates of change, can use the framing of the report.

I confess that it feels partly like teaching. With the report open, it has been about telling people what “progressive realisation” and “minimum core obligation” mean, as well as showing them how to ask the correct questions—telling them that they have a right to an accessible, affordable, adaptable and good-quality health service. We want to make sure that those are the questions that are being framed and that people contact their MSPs with that type of information and report back to us to make sure that we can raise any issues. It is about making sure that we serve as the national human rights institution, as we are supposed to be that bridge. That is a significant part of our work while we reflect on what we can do in the medium to long term.

We also very much welcome this conversation, and we would encourage members to take evidence and to scrutinise any Governmental response to the report. So far, we have had a limited response from the Government: it is reflecting on the findings of the report and is considering the available options. That is everything that we have heard from the Government so far. It is possible for the committee to take further evidence on the issue—and we would encourage you to do that—while we continue to try to influence the Government and local authorities regarding what could come next.

10:45

Ariane Burgess: You said that it feels a lot like teaching and that you have to explain a lot to people. Are human rights embedded in our school

curriculum, so that younger people are growing up knowing what they are?

Professor O'Hagan: Yes, but perhaps to varying degrees, as far as I am aware. As a parent, I was pleased when my then primary-school-age child came home brandishing her declaration of human rights information. I thought, "My goodness, how times have changed."

However, it is variable. Human rights are not embedded in our national discourse and everyday conversation. Not only is it our mandate to raise awareness of human rights, to promote human rights and to engage in education around human rights; it is our collective responsibility to talk about human rights in the everyday. Human rights are not remote or exotic; they are about how we live our everyday lives and the expectations that we want the people we serve to have in their everyday lives.

The Convener: That gives me a great way in to congratulate Garlieston primary school, in my region. Under the stewardship of Caroline Howatson, a teacher there, it has recently won an award for the work that it has done on human rights. I regularly see primary schools that are doing that sort of work, which is absolutely fundamental to ensuring that people recognise what they should and should not expect as they go through life. It is great to have the opportunity to say that.

Tim Eagle is next.

Tim Eagle: I think that my question has just been answered. I was going to ask what response you have had from the Scottish Government and what your big summary message to us is. You have just said that it is not just the Scottish Government but all of us as MSPs, in representing our constituents, who have a responsibility to be pushing and questioning and constantly asking. Unless there is anything else that you want to add, I think that you just summarised the situation.

Emma Harper: I have a quick question, Professor O'Hagan. You said that you are coming to the south of Scotland. How will you let people know that you are coming, so that they can engage with the next part of your engagement?

Professor O'Hagan: We will use a whole range of things. I will let Luis Yanes speak to the specifics, but we will be using all forms of social media. We will be in touch with MSPs and your offices. We will be in touch with local authorities, integration joint boards, community health partnerships and so on, as well as with the voluntary sector interface and a lot of other organisations. You would expect us to boost word of mouth, as well as what we will be doing through a whole range of communication channels. Have I missed anything, Luis?

Dr Yanes: I think that covers it. The big learning for us has been in working a lot with small local media, which we have never had the capacity to do before. Creating those relationships and working directly with small local media has been significant, and we want to replicate that in the south of Scotland.

Emma Roddick: We talk a lot about intersecting inequalities when it comes to equalities in human rights budgeting, but that tends to focus on the protected characteristics in the Equality Act 2010. Following the work that you have done here, do you think that there needs to be more consideration of how inequalities relating to rurality and island living can accumulate on top of other inequalities?

Professor O'Hagan: That question is consistent with what we have been saying about how the different tools are used and about the fact that they are not stand-alone. The protected characteristics in the Equality Act 2010, for which we are not the regulator, should nonetheless pertain in public authority decision making under the public sector equality duty. The public sector equality duty does not, and should not, sit as a separate activity. Compliance with the public sector equality duty should not be separate from effective islands analysis, because what applies in the PSED applies in island and rural communities. It is about making that practice in public authorities better, because it really needs significant improvement.

The Convener: Ariane Burgess has a question. If the question and the response are likely to be succinct, I will bring you in, Ariane.

Ariane Burgess: Thanks, convener. I appreciate that.

We talked earlier about addressing the individual problem while not tackling the need for systemic change. This conversation has raised for me issues of governance when people are not in the boardrooms. We are talking about engagement and consultation, but do we also need to consider structures of governance that put people in the room? Community planning partnerships are an attempt in that direction, and they work to some degree in some places but not in others. What are your thoughts on such structural change?

Professor O'Hagan: Taking a human rights-based approach and using the PANEL principles and the FAIR analysis process brings people in.

On structure, process and outcome, we need to open up structures and bring people in. We also need to ensure that that is well supported and not, as Luis Yanes said, extractive; that there is a clear purpose for it; that it is sustained; and that people

feel that they are heard and that their contribution is valuable.

The Convener: Have you learned any lessons from your work in the Highlands and Islands that might lead you to take a slightly different approach to your work in the south of Scotland? We do not have the island communities in the south of Scotland, but we have similar challenges. Will you take a slightly different approach in the light of your findings from the Highlands and Islands surveys?

Professor O'Hagan: The distinct regions have different logistical challenges, and we have been learning lessons on our methodology and questions. Some of the secondary data will also shape some of the focus of inquiry.

Luis Yanes might have something to add.

Dr Yanes: I will try to be brief. I could speak for an hour on methodology, which I do not think anyone wants.

We want to do a few practical things differently, one of which addresses one of the questions from Ms Roddick. We are evaluating the idea of not only continuing the individualised, semi-structured interviews, but having at least one town hall meeting per area per week, to bring a variety of voices into the room. Such meetings could involve a few dozen people or more. We are considering using that as a further method of evidence gathering and an opportunity for us to explain human rights and to look further.

We are also thinking about where to set the boundary. The Highlands and Islands region fits neatly within council areas, but the south of Scotland does less so. We might tweak what "the south of Scotland" means, to ensure that we consider both the council areas and the region. Therefore, we might broaden it a wee bit more into, for example, West Scotland, to ensure that it includes part of the relevant council area. That is part of what might look a bit different.

Based on the learning that we have had, questions will also be added on the framework, to get more evidence.

The Convener: Thank you very much, Dr Yanes and Professor O'Hagan. Your contributions have been fascinating and hugely welcome. I am sure that, although we might not get back to the report, what we have heard will inform our questions and our scrutiny of legislation through the rest of the parliamentary session. Thank you very much for your time.

10:53

Meeting continued in private until 11:26.

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Official Report
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Scottish Parliament
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