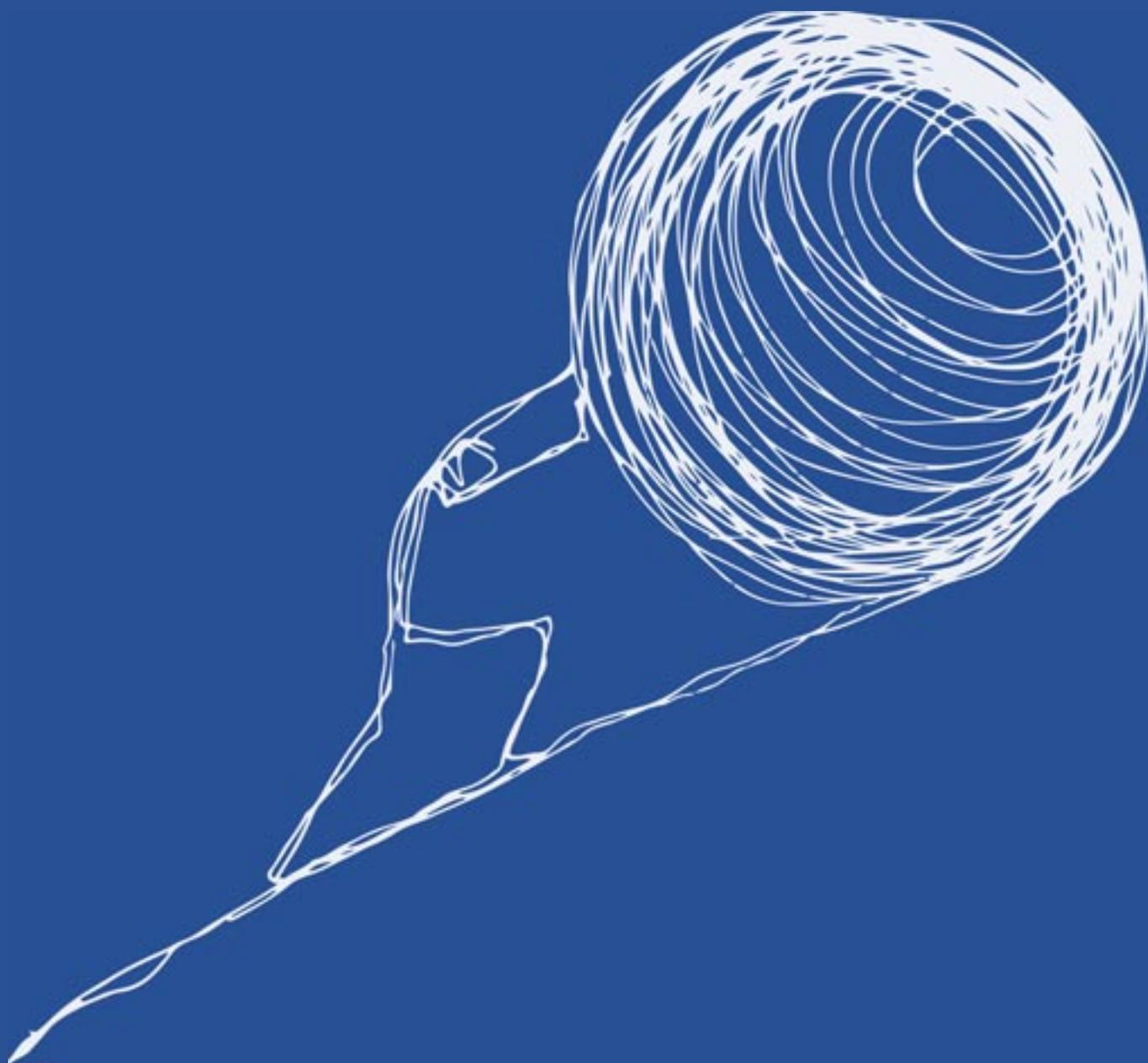


Lived Expertise in Access to Justice



Human Rights Consortium Scotland Report
November 2023

A parallel report to Make Human Rights Justice a Reality



INTRODUCTION

Access to justice is a fundamental pillar of a fair and equitable society, ensuring that every individual can seek and obtain redress for human rights issues. However, numerous barriers exist that impede people from fully accessing the justice system in Scotland. This report aims to shed light on these barriers and propose recommendations to address them, thus fostering a more accessible and inclusive justice system.

This report parallels our wider report 'Make Human Rights Justice a Reality' but summarises the experience given to us by groups we have worked with. With thanks to the participants in our open call for lived experience of barriers to accessing justice, including organisations who reached out to us to help facilitate workshops focused on specific problems their members faced:

- Women's Integration Network (WIN)
- Saheliya
- The Scottish Refugee Council
- White Ribbon Scotland
- Dyslexia Scotland

All quotes within this report are directly taken from these workshops but have been anonymised for the privacy of participants. It is important to keep in mind that this evidence is solely from what people told us. There are so many voices we did not have had the capacity or resource to reach, as well as being affected by who did and did not respond to an open call on access to justice workshops.

However, we hope that this report, in tandem with calls to action in the report 'Make Human Right Justice a Reality', serves as a stepping stone for decision makers to grasp the barriers to justice in reality, and to start to make access to justice easier for those voices we have heard and those we have not been able to.

This report highlights several key themes and barriers that hinder access to justice in Scotland. Addressing these barriers is essential to foster a fair, inclusive, and effective justice system. It requires collaborative efforts between policymakers, legal professionals, community organisations, and people affected by these barriers, as a consequence of systemic failure. It is important to remember that although these problems are faced by individuals and communities, they are representative of wider systemic failure.

ACCESS TO HUMAN RIGHTS INFORMATION

Many participants in the workshops spoke about limited human rights information posing a significant challenge to accessing justice in Scotland. There is a lack of accessible information for people about their rights which makes navigating the justice system almost impossible and hinders the ability to seek redress for legal issues and protect their rights. This systemic failing creates a power imbalance and perpetuates inequality within the justice system.

The impact of limited education on accessing justice is multifaceted. We heard from people, that there is a systemic lack of knowledge about rights, the legal processes involved in seeking justice, and the available avenues for legal assistance among people. This knowledge gap leaves people vulnerable to exploitation, discrimination, and unfair treatment. Moreover, we heard that people face challenges in understanding complex legal terminology, procedures, and documentation, making it difficult for them to advocate for themselves effectively. This is something we have heard time and time again through other work at the Consortium¹.

“There has to be a huge great big education exercise. Simply because you’re not going to look to justice, if you don’t understand the human rights or what they are to begin with. There needs to be an absolutely massive effort put into this. I mean, **most people I know think that human rights are for other people, rather than for everyone.**”

“For me, the word human rights doesn’t seem to be clear to everybody. **The definition of human rights is different to everybody.**”

Participants spoke about a biased media rhetoric and increasing polarisation in politics that has meant that “human rights” as a term has become stigmatised. General misunderstanding, and a lack of willingness to understand that no human right can really work without universal human rights being in place has left many who face human rights violations suffering. Through our workshops, we found that many people felt like they didn’t have to engage with human rights until one of theirs was violated.

“So yes, it’s about this education of human rights for every single person, because the thing people don’t seem to realise is if one person’s human rights were infringed upon, then every single person’s right are infringed upon. **Human rights don’t exist if they’re not universal.**”

In Scotland, a significant factor contributing to the limited understanding of human rights is the general lack of information about human rights principles and their application in everyday life. People felt that human rights education is not widely integrated into formal education or information given to residents from local authorities, resulting in a population that has minimal knowledge of their fundamental rights and freedoms until they encounter violations personally.

We spoke with many refugees and asylum seekers who were not properly informed of their rights upon entering the country. Additionally, there are complex factors at play for asylum seekers and refugees which limits their willingness to speak up and ask about how to get something done when a human right is violated in this country. Stigmatisation, which will be discussed later in this report, plays a huge role in how this group of people chooses whom to trust with their information. Finally, we found that as a group, coming to terms with the cultural differences between Scotland/the UK and their place of origin is difficult and a key factor in not understanding what basic rights should be offered.

“I mean, you’re basically stepping into a whole new world, and it isn’t easy. You have got to learn the ropes of a whole new culture, like learning a whole new language – but in real life, not just words on a page. **From the food you eat to the way you say hello.**”

INCLUSIVE COMMUNICATIONS

Effective communication plays a vital role in improving access to justice. It is essential to spread the message of human rights in a way that resonates with people and encourages their active participation in the system. Inaccessible communications present significant barriers to accessing justice. Many people face challenges in understanding legal terminology, navigating complex procedures, and comprehending legal documents. This can lead to confusion, and misinterpretation, and ultimately hinder their ability to seek help.

“I’ve witnessed both for vulnerable people within my family or just in the community at large – people having their access to information and freedom of expression and **access to fair justice and health and education frequently denied because they have a communication disadvantage**, either stemming from their life circumstances, or long term conditions, or simply, or because they're unwell, either physically or mentally unwell, and not able to understand or express themselves as they may otherwise do.”

The denial of access to information poses a significant challenge for vulnerable people. Without access to vital information, people are unaware of their rights, available support services, or legal avenues for seeking justice. This lack of information exacerbates existing inequalities and impedes their ability to navigate various aspects of their lives.

Sub-section: Language Barriers

Interpretation services are critical to facilitate effective communication with people from diverse linguistic backgrounds. Language barriers should not impede access to justice. Providing quality professional interpretation services, both in-person and remote, allows people to communicate their needs, concerns, and experiences accurately. Unfortunately, many asylum seekers and refugees are denied this right.

Women from marginalised backgrounds spoke about the following experiences:

“Interpretation rarely has any quality standard – however well qualified or whatever contract has been signed there is, by definition, there is no way that the service provider or the service user can know about the quality of the interpreting service for our members.”

- 1. Gender Imbalance:** Male interpreters may make it challenging for women to share sensitive information about sexual abuse or women's health issues. Instances have been reported where male interpreters refuse to translate such matters or exhibit discomfort, leaving the burden on multilingual staff to fulfil their responsibilities.

- 2. Gender Biases:** Interpreters, regardless of their gender, may not approach gender-based violence from an informed perspective. They may perpetuate harmful beliefs by shaming women for discussing domestic abuse, sexual abuse, female genital mutilation (FGM), or forced marriages, or by blaming them for the abuse they have suffered. In some cases, interpreters may even collude with the abuser.
- 3. Lack of Quality Standards:** Interpreting services often lack consistent quality standards, irrespective of the interpreter's qualifications or contractual obligations. Service providers and users have no means to assess the quality of the interpreting service they receive. Saheliya, having multilingual staff present, has witnessed instances where incorrect dialects or languages, or inappropriate approaches to domestic violence, have impacted legal proceedings and outcomes.
- 4. Familiarity and Confidentiality:** In small Black, Asian, and Minority Ethnic (BAME) communities in Scotland, interpreters may be known to the woman or be related to her, which can create doubts about the confidentiality of the service. Breaches of confidentiality by interpreters have led to situations where women's abuse and mental health have worsened. These breaches are challenging to prove, and women are often hesitant to speak out against interpreters due to their power and influence in their communities.
- 5. Gatekeeping and Advocacy:** Interpreters sometimes act as gatekeepers and advocates for certain services, which can lead to ethical concerns. There have been reports of interpreters soliciting business for asylum and immigration solicitors or requesting payment, including non-monetary forms. Women may not formally report these instances due to the interpreters' power and respect within their communities.

Sub-section: impairments and inaccessible information

Among the various communication barriers, people who are deaf or have hearing problems face unique challenges when accessing justice. Limited or no access to auditory information and communication can significantly impede their ability to understand legal proceedings, seek legal advice, and participate fully in the justice system. Communication barriers arise when there is a lack of appropriate communication channels between deaf people and legal professionals. Many

legal professionals are not proficient in sign language, leading to difficulties in conveying and receiving information. Communication breakdowns can result in misunderstandings, misinterpretations, and unequal treatment.

The scarcity of qualified sign language interpreters presents a significant barrier for deaf people in legal settings. Access to a skilled interpreter is crucial for effective communication during court proceedings, police interviews, legal consultations, and other interactions within the justice system. The shortage of interpreters can lead to delays, inadequate communication support, and compromised understanding of legal processes.

“Please don’t say you support disabled people, if you can’t support deaf people. Unfortunately, too many public sector organisations say they campaign for human rights, but I’m not included (as a deaf person), I’m pushed aside because of the communication and language barrier, because they don’t have accessible information or inclusive communications. Communication and language aspects should be fundamental for anyone regardless. So, **enshrine don’t preach.**”

Although this is the starkest example from our workshops, it needs to be highlighted that inaccessible communications are the reality for all disabled people whose access to information is limited both in-person and virtually.

“The law is incredibly difficult at the best of times. However, if you know someone who is blind. Do you send them the letter in braille? Do you let them use assistive technology which enables a person to have the letter read to them? The term reasonable adjustment is like asking someone how long a bit of string is.”

We also gathered lived expertise from some disabled people, including people affected by dyslexia, dyspraxia, autism, ADHD and Tourette’s, about their experience of exclusion from human rights protections. They spoke about the general lack of understanding and support within the legal system and workplace. One significant barrier is the lack of recognition of the different information processing methods used by people with certain disabilities, making it difficult to handle large amounts of information simultaneously. Many people need access to bite-sized information and additional time to process it for effective communication.

“There is not enough information on hidden disabilities and what rights people have in the legal system. **This is not just an educational problem as it affects your whole life.** The biggest barrier is that people like me process information in a different manner. I find being bombarded with lots of information at the same time incredibly difficult.”

“I think there should be better awareness of human rights. At my age, **I would expect to know a bit more about my human rights rather than finding information out through studying.** In the case of dyslexia how to access information on human rights. Assistive software is available to people to have things read to them. We are in a digital age and there is assistive technology with speech-to-text availability.”

Accessing information about human rights for disabled people is crucial, and we heard that simple solutions like different fonts, spacing, and printing on dull paper can enhance accessibility.

In summary, the pervasive barriers to inclusive communication reveal a systemic issue that impedes the realisation of human rights for disabled people. Prioritising inclusive communication as a fundamental principle is essential to ensure that all people, regardless of impairment, have their rights protected and realised, leaving no one behind in the pursuit of justice and equality.

STIGMATISATION

Marginalised groups in Scotland often face significant stigmatisation when attempting to report human rights problems or seek justice. This stigmatisation can stem from various factors, including:

- societal biases
- systemic discrimination
- power imbalances

The consequences of stigmatisation are harmful, discouraging people from coming forward, perpetuating a culture of silence, and hindering access to justice. The lack of trust in public services is a distressing and pervasive problem

that people told us about when trying to access essential services and justice. The experiences detailed in this section underscore the urgent need for reforms, enhanced cultural competence, and a commitment to equitable and respectful treatment by public service providers.

Groups we spoke to, such as Black people and people from ethnic minorities, LGBTQ+ people, and socioeconomically disadvantaged communities, told us that they experience stigmatisation when interacting with the police. This can manifest as racial profiling, discriminatory treatment, or a lack of cultural sensitivity. The fear of being stigmatised or facing negative repercussions often deters people from reporting human rights violations or seeking assistance from law enforcement authorities.

“How can we trust in anything that is promised to us anymore?
It’s difficult to restore trust too. There are so many issues faced by asylum seekers and refugees and people don’t speak out on these issues because they do not trust the authorities.”

It was a recurring theme throughout workshops in the lack of trust in public services being the struggle people face when attempting to report problems, only to find their concerns not being taken seriously. This issue is particularly pronounced within the realms of housing, education, children’s health, and mental health services. When people do muster the courage to report issues, they spoke about having been met with scepticism or indifference, leading to a breakdown in trust.

The trust deficit is further exacerbated by people witnessing the experiences of other women whose interactions with public services have compounded their difficulties. This was especially true for migrant women we spoke to. For instance, there have been cases of inconsistent and inappropriate responses from social work services in child protection matters.

“Our members have told us that courts handling domestic abuse and child custody cases sometimes prioritise the words of articulate public services representatives who speak English over those of women with limited English proficiency. We also feel that there is also racism and xenophobia involved in these decisions.”

Sub-section: Housing

When people from marginalised groups encounter human rights issues related to housing, they sometimes face stigmatisation from housing officers. Participants spoke about prejudices based on factors such as race, ethnicity, disability, or socioeconomic status leading to bias in decision-making processes which perpetuate housing inequalities. The fear of being judged, dismissed, or facing adverse consequences discourage people from reporting violations or seeking redress for their housing-related human rights concerns.

“They enter our accommodation without telling us. They come at random times and barge their way into our homes. It is our right to be told when they are coming for inspection, but **they never extend this courtesy or respect to us**. We are seen as lesser.”

Sub-section: Access to healthcare

Stigmatisation within the healthcare system can create significant barriers for marginalised groups seeking to report human rights problems related to their health. People from racial and ethnic minorities, LGBTQ+ communities, and disabled people spoke about encountering discriminatory practices, inadequate care, or a lack of cultural competence from healthcare professionals. This stigmatisation can erode trust, discourage disclosure of human rights issues, and impede people’s access to appropriate healthcare services.

For example, people reported instances where health problems were dismissed as “not real problems,” leading to the prescription of painkillers rather than the more comprehensive diagnoses and care that were needed. Some of these issues remained undiagnosed for a decade or more. Such experiences within the health system understandably erode trust in public services, as individuals question the ability of these institutions to provide fair and effective solutions.

Sub-section: A broken system

A culture of fear can develop within marginalised communities when people witness how others from their community have been treated when reporting human rights problems. We heard that when people observe discrimination, victim-blaming, or a lack of accountability, they become apprehensive about seeking justice themselves. The fear of retaliation, further discrimination, or being disbelieved can silence people and perpetuate a cycle of stigmatisation and injustice.

Sub-section: Rural areas

People residing in rural areas spoke about unique challenges when attempting to report human rights problems. Limited access to support services, scarcity of legal resources, and close-knit communities can contribute to stigmatisation and a lack of confidentiality. Concerns about community backlash or being ostracised may discourage people from reporting human rights violations, creating a significant barrier to accessing justice in rural regions.

EMOTIONAL AND FINANCIAL COST

Accessing justice and finding solutions for human rights problems in Scotland often comes with significant financial and emotional costs², something that participants in workshops were very aware of as a significant barrier to pursuing remedy through lawyers or courts. The financial burden can be substantial, as people are required to cover legal fees, court expenses, travel and accommodation costs, and potential loss of income. Engaging legal representation can be financially demanding, especially in complex cases or prolonged legal processes. Individuals residing in rural areas or disadvantaged communities may face additional challenges and expenses related to travel and accommodation when attending court hearings or meetings. People spoke about the financial strain of seeking justice feeling overwhelming, particularly for those with limited financial resources.

“I could also mention **the cost of getting legal advice**, a couple of times, I’ve approached a lawyer for initial advice on my case, and they’ve quoted me £2-3000 just for looking over the documents and giving you an opinion about whether or not it’s worth going forward.

That seemed an awful lot.”

In addition to the financial costs, pursuing justice for human rights problems can impose a heavy emotional toll on people. Navigating the legal system and seeking redress can be an anxiety-inducing and stressful experience. The complexity of legal procedures, uncertainty surrounding outcomes, and lengthy timelines can contribute to heightened levels of stress and emotional strain. Human rights problems often involve experiences of abuse, discrimination, or injustice, leading to emotional trauma. Reliving these traumatic events during legal proceedings can further exacerbate emotional distress.

Furthermore, seeking justice for human rights problems can lead to stigmatisation and isolation. People have told us they may encounter scepticism, victim-blaming, or social ostracisation, adding to the emotional toll of the process. The experience of pursuing justice can be isolating, as people may feel misunderstood or unsupported by their communities. This social and emotional isolation can further compound the difficulties and challenges faced in seeking justice.

ACCESS TO LAWYERS AND REMEDY THROUGH COURTS

When we spoke with communities, despite many examples of their experience of human rights violations, there was a lack of evidence given around their experiences of using the court and lawyers to find remedy to these human rights problems. This was because many people did not get as far as accessing this system due to all the other barriers spoken about in this report.

On the whole, people who faced human rights violations felt a sense that the court system was unreachable to them due to financial barriers. Many people look instead to community and grassroots organisations such as the Scottish Women’s Rights Centre (SWRC) for support when trying to deal with, and resolve, a human rights issue. This is the key piece of evidence that should be stark to decision-makers – that systems may be in place to challenge a human rights violation, but most people have no idea where to begin without community-based expert support.

“I guess **I can’t begin to understand** how to begin to hire a lawyer to be honest.”

“Access to Justice when it comes to family law, for victims of domestic abuse is **really challenging and very expensive** and can be used as a tool to extend the abuse by the perpetrator. And so, the Scottish Women’s Rights Centre is really useful because it gets free advice. And they’re very knowledgeable, and they’re just really an example of really good practice, but there’s just the one.”

For those who have navigated the labyrinth of acquiring information, seeking legal counsel, and marshalling the necessary resources to pursue human rights justice in court, we heard that their experiences remains overwhelming, confusing, and emotionally taxing. Even as people grapple with the inherent challenges of human rights violations, the court process itself compounds their burden, transforming a quest for justice into an exhausting ordeal.

As Scotland anticipates the forthcoming Scottish Human Rights Bill, more of our human rights will be enforceable through the courts. Yet, the reality for many who have attempted to access justice through the courts is that it is a daunting and inaccessible journey.

CONCLUSION

Access to justice is a cornerstone of any fair and equitable society, ensuring that every individual can seek and obtain redress for human rights issues. In Scotland, the path to justice is fraught with barriers and challenges that often hinder rather than facilitate access to the legal system. This report helps to shed light on some of those barriers.

This report is a culmination of the voices and experiences of individuals and groups who have bravely shared their stories, as well as organizations like Women's Integration Network (WIN), Saheliya, The Scottish Refugee Council, White Ribbon Scotland, and Dyslexia Scotland, who have facilitated workshops and collaborated with us to bring these issues to the forefront. We can't thank them enough for their contributions.

The barriers to accessing justice in Scotland are systemic and multifaceted, impacting individuals and communities in profound ways. Addressing these barriers requires a concerted effort from Government, all policymakers, legal professionals, and community organisations who provide support to people affected by these systemic failures. "Make Human Rights Justice a Reality," is an accompanying report that sets out 13 practical, priority actions to improve access to justice in Scotland – as is made very clear in this report that summarises some people's lived experience, the status quo is not working.

Without a doubt, action is needed if human rights justice is to be accessible for all.

*The Human Rights Consortium Scotland would like to thank Network for Social Change for their support towards our work around accessing justice.
Human Rights Consortium Scotland SCIO: SC050099*

Footnotes

1. Human Rights Consortium Scotland, Human Rights Bill Lived Experience Board Reports, 2022
2. Human Rights Consortium Scotland, Human Rights Bill Lived Experience Board Reports, 2022

