

What are economic and social rights and how are these rights monitored in international law?

Economic and social rights are a category of human rights needed by all people to live in security, peace and dignity with a guarantee of physical health and safety.

Human rights are recognised in international treaties that the UK was instrumental in bringing to life.

One of these treaties is the International Covenant on Economic, Social and Cultural Rights (ICESCR). In 1976, the State of Great Britain and Northern Ireland ratified ICESCR, voluntarily agreeing to be legally bound by the treaty. Across Great Britain and Northern Ireland, at local and national levels, public bodies have a legal obligation to incorporate and implement economic and social rights into laws, policies, and practice.



Treaties have an independent body to monitor and help countries implement human rights at the national level. ICESCR has a monitoring body of 18 experts called the UN Committee on Economic, Social and Cultural Rights (CESCR).

CESCR's expert guidance in general comments, and recommendations in concluding observations, together with standards set by human rights institutions, help the UK implement economic and social rights.

In June 2016, CESCR made 60 specific recommendations to improve protection of economic, social and cultural rights in the UK. The UK has historically taken on board recommendations made by this and other bodies, which contributed to improve the level of enjoyment of all human rights in the UK.

International Covenant on Economic, Social and Cultural Rights (ICESCR)

ICESCR establishes that we are all entitled to certain human rights, including the right to social security, right to food and housing as part of an adequate standard of living, right to work and workers' rights, the right to health, education and participation in cultural life.

These rights, often known as "economic, social and cultural rights" or "ESCR" for short, have equal status in international law with civil and political rights, such as freedom of expression or the right to a fair trial.

States must take measures to the maximum of their available resources with the aim of achieving progressively the full realisation of economic, social and cultural rights.

The principle of non-retrogression means that any regressive measure must be reasonable and temporary, avoiding disproportionate impact on disadvantaged groups. Regressive measures must not deprive of basic social standards, and they must be accompanied by an independent review.

States have a legal obligation under ICESCR to respect, protect and fulfil economic and social rights:

RESPECT: prohibited from direct or indirect interference with rights

PROTECT: obliged to prevent third party interference with rights

FULFIL: obliged to adopt necessary measures to ensure everyone enjoys rights

Committee on Economic, Social and Cultural Rights (CESCR)

The independent monitoring body CESCR carries out three main functions.

CESCR issues authoritative statements about the meaning of the different rights set out in ICESCR. They are called "general comments".

Every five years CESCR reviews the level of enjoyment of ESCR in each country. After careful consideration of information provided by governments and civil society, CESCR makes public a set of conclusions and recommendations to the state party. These are called "concluding observations".

Individuals in some countries can submit complaints called "communications" to CESCR when they consider their rights under ICESCR to have been violated. If CESCR then finds there has been a breach of the Covenant, it makes detailed recommendations on the specific case.

However, this is only applicable to those countries that have ratified the Optional Protocol to ICESCR, of which there are 24 today. The UK has for now chosen not to sign up to it, which means that, unlike those living in other countries, people in the UK cannot submit complaints to the UN for the breach of their economic, social and cultural rights.

CESCR's Concluding Observations on the United Kingdom (2016)

On behalf of a consortium of more than 70 national and local groups, Just Fair monitored the 2014-16 CESCR review of the UK, and informed the UN's analysis with a parallel report and a response to the list of issues of the Committee in 2016.

In its most recent review of the UK's obligations under ICESCR, the UN's independent monitoring body raised serious concerns and made 60 specific recommendations, including:

- Adopt all necessary measures to address the deficit of affordable housing in the UK and address growing rates of homelessness in the UK.
- Eliminate the gender pay gap improve access to affordable childcare and reduce the use of temporary and precarious forms of employment, such as “zero hour contracts”.
- Review fiscal policy to make sure that the UK taxation provides the necessary resources to meet economic and social rights.
- Allocate greater resources to the treatment of mental health and promote wellbeing.
- Enact the Equality Act 2010 in full, in particular, the socio-economic equality duty of Section 1.
- Make economic and social rights enforceable in court, just like civil and political rights, but without making any regressive changes to the Human Rights Act 1998.
- Ensure that the implementation of the Trade Union Act 2016 does not constrain the enjoyment of workers' rights to collective bargaining.
- Alleviate destitution of asylum seekers

CESCR's upcoming 7TH review of the UK's obligations under ICESCR is in 2021/22.

Registered as a charity since 2011, Just Fair works to realise a fairer and more just society in the UK by monitoring and advocating for the protection of economic and social rights.

Just Fair is committed to increasing public awareness of international human rights law and the capability to use it. Just Fair is also devoted to the advancement of high-quality thinking, training and practice to ensure that economic and social rights are respected, protected and fulfilled.