

Equalities, Human Rights and Civil Justice Committee

5th Meeting, 2023 (Session 6), Tuesday 21 February 2023

Note by the Clerk

Human Rights: Minimum Core Obligations

Introduction

1. At its work programme discussion on 17 January 2023, the Committee agreed it would like to undertake some further work on what minimum core obligations would mean in practice. This work builds on the Committee's previous work on human rights budgeting and will help provide context ahead of the introduction of the proposed Scottish Human Rights Bill.

Previous work on Human Rights Budgeting

2. The Committee has previously explored what is meant by minimum core obligations through its budget scrutiny process. At its session on [28 September 2021](#), the Committee heard from witnesses that capacity building is required to understand what minimum core obligations are and what progressive realisation means.
3. At its session on [25 January 2022](#) the Committee heard that using a human-rights based approach would mean Scotland working to a minimum core when it comes to the basics of what should be tolerated.
4. The Committee heard further evidence in its session on [25 October 2022](#) which followed a private session with Rob Watts and People First on their experience of the Scottish Budget.

Minimum Core Obligations

5. The [SHRC has explained](#) (2019) that states who have signed and ratified the [International Covenant on Economic, Social and Cultural Rights](#) (ICESCR) have freely undertaken international legal obligations to ensure the protection of the social, economic and cultural rights, including the right to an adequate standard of living, housing, healthcare, education and work for their citizens.

6. Any country that is a signatory to [ICESCR](#) is mandated to “take steps.. to the maximum of its available resources with a view to achieving progressively the full realisation of the rights recognised in the present Covenant by all appropriate means, including particularly the adoption of legislative measures” Article 2(1) ICESCR
7. The minimum core is intended to ensure that a person can live with human dignity. Failure by a government to provide minimum core amounts to a presumption that a government is in violation of the Covenant.¹
8. However, there is little agreement on how to define minimum core obligations in practice and an ongoing debate on whether the minimum core obligations in a developed country should be the same as those in a developing country.
9. Guidance is provided by the [UN Committee on Economic Social and Cultural Rights](#) on what would be necessary to meet the minimum threshold in relation to certain rights through the issuing of [General Comments](#).

Introduction of a Scottish Human Rights Bill

10. The Scottish Government announced it would introduce a new Human Rights Bill during Session 6 of this Parliament. The aim is to introduce a new human rights framework for Scotland based on recommendations from the [National Taskforce for Human Rights Leadership](#) which was established to take forward the recommendations made in the [2018 Report of the First Minister’s Advisory Group on Human Rights](#) to prioritise actions to progress human rights and equality in Scotland
11. The Bill will restate the rights in the Human Rights Act 1998 and incorporate rights of four UN Human Rights treaties into Scots Law on economic, social and cultural rights, women, disabled people and minority ethnic communities. The Bill will also include rights for older people, LGBTI people and rights on a healthy environment.
12. Today’s session will provide useful context ahead of the introduction of the Bill.

Oral evidence

13. At today’s meeting, the Committee will hear from

- **Rob Watts**, Economist, Fraser of Allander Institute;
- **Dr Alison Hosie**, Research Officer; and
- **Luis Felipe Yanes**, Legal Policy Development Officer, Scottish Human Rights Commission.

¹ This is unless a government can demonstrate that “every effort has been made to use all resources that are at its disposal” to prioritise reaching those minimum core.

14. Members are likely to explore with witnesses, issues including
- what minimum core obligations might look like;
 - how consensus on minimum core obligations can be achieved and what steps we can take to ensure this is a participatory process;
 - whether minimum core obligations can change depending on the economic situation or should remain fixed;
 - how we might be able to monitor and measure whether minimum core obligations have been met; and
 - whether there are examples to draw on from international comparisons.

Next steps

15. The Committee will take further evidence on minimum core obligations at its sessions on 21 and 28 March when it will hear from a number of academics with expertise in this field including those who contributed to the report from the National Taskforce for Human Rights Leadership. Thereafter, the Committee will consider all the evidence it has heard and agree what further steps, if any, it wishes to take.

**Committee Clerks
February 2023**