



**Economic and
Social
Council**

Distr.
GENERAL

E/C.12/GBR/CO/5
12 June 2009

Original: ENGLISH

COMMITTEE ON ECONOMIC, SOCIAL
AND CULTURAL RIGHTS
Forty-second session
Geneva, 4-22 May 2009

**CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLES 16 AND 17 OF THE COVENANT**

**Concluding observations of the Committee on Economic, Social and Cultural
Rights**

**United Kingdom of Great Britain and Northern Ireland, the Crown
Dependencies and the Overseas Dependent Territories**

1. The Committee on Economic, Social and Cultural Rights considered the combined fourth to fifth periodic report of the United Kingdom of Great Britain and Northern Ireland, the Crown Dependencies and the Overseas Dependent Territories on the implementation of the International Covenant on Economic, Social and Cultural Rights (E/C.12/GBR/5) at its 14th, 15th and 16th meetings, held on 12 and 13 May 2009 (E/C.12/2009/SR.14-16), and adopted, at its 26th and 27th meetings held on 20 and 22 May, respectively, the following concluding observations.

A. Introduction

2. The Committee welcomes the submission of the combined fourth to fifth periodic report of the State party, which was generally in conformity with the Committee's guidelines and contained explicit references to the implementation of the Committee's previous concluding observations. The Committee also welcomes the written replies to its list of issues (E/C.12/GBR/Q/5/Add.1), and the open and constructive dialogue held with the delegation of the State party, which included

representatives from various government departments with expertise on the subjects covered by the Covenant, including from Scotland and Wales, while noting the absence of representatives from Northern Ireland, the Crown Dependencies and the Overseas Dependent Territories.

3. The Committee notes with appreciation the involvement of the national human rights institutions and some non-governmental organizations in the process of preparation of the State party's report and encourages the State party to establish an institutional framework for future cooperation with national human rights institutions and civil society in the preparation of its reports to the Committee and the follow-up.

B. Positive aspects

4. The Committee welcomes the establishment of national human rights institutions in the State party, namely the Equality and Human Rights Commission, the Northern Ireland Human Rights Commission and the Scottish Human Rights Commission.

5. The Committee welcomes the launching of the Green Paper "Rights and responsibilities: developing our constitutional framework" and the ensuing public consultation on a Bill of Rights and Responsibilities.

6. The Committee notes with appreciation the introduction of an Equality Bill, which aims at streamlining the existing equality legislation and extending protection from discrimination in other areas such as age and sexual orientation, as well as the establishment of a range of institutions to address equality issues such as the Panel on Judicial Diversity and the Panel on Fair Access to the Professions.

7. The Committee welcomes the measures adopted by the State party which contribute to the implementation of the Covenant rights, which inter alia have led to a decreased number of children living in poverty, improved conditions of work, and enhanced overall levels of health. It notes with appreciation the various legislative and policy reforms undertaken, including the Homelessness etc. (Scotland) Act 2003, the Childcare Act 2006, and the National Health Service Constitution (final text published on 21 January 2009).

8. The Committee welcomes the ratification by the State party of the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women in 2005.

9. The Committee acknowledges the State party's commitment to achieve by 2013 the granting of 0.7 per cent of its GDP as official development assistance in accordance with internationally agreed policies.

10. The Committee notes the draft Bill of Rights for Northern Ireland, which includes economic, social and cultural rights which are justiciable, and calls for its enactment without delay.

C. Factors and difficulties impeding the implementation of the Covenant

11. The Committee notes the absence of any significant factors or difficulties impeding the effective implementation of the Covenant in the State party.

D. Principal subjects of concern and recommendations

12. The Committee is concerned, even though it takes note of the State party's structure of government, with devolved administrations in Northern Ireland, Scotland and Wales, and separate government structures in the Overseas Territories and Crown Dependencies, about the lack of a national strategy to implement the Covenant. It is also concerned about the limited availability of information regarding the implementation of the Covenant in the Overseas Territories and Crown Dependencies.

Bearing in mind that it is that State party which is responsible for the implementation of the Covenant in all its territories, the Committee urges the State party to ensure the equal enjoyment of the economic, social and cultural rights by all individuals and groups of individuals under its jurisdiction, and recommends that the State party adopt a national strategy for the implementation of the Covenant throughout the State party's territories.

13. The Committee reiterates the concern it expressed in its previous concluding observations that, despite the adoption of a wide range of laws with regard to economic, social and cultural rights, the Covenant has still not been incorporated into the domestic legal order of the State party and cannot be directly invoked before the courts. It also regrets the statement made by the State party's delegation that economic, social and cultural rights are mere principles and values and that most of the rights contained in the Covenant are not justiciable.

The Committee urges the State party to ensure that the Covenant is given full legal effect in its domestic law, that the Covenant rights are made justiciable, and that effective remedies are available for victims of all violations of economic, social and cultural rights. The Committee reiterates its recommendation that, irrespective of the system through which international law is incorporated in the domestic legal order (monism or dualism), following ratification of an international instrument, the State party is under a legal obligation to comply with such an instrument and to give it full effect in its domestic legal order. In this respect, the Committee again draws the attention of the State party to its general comment no. 9 (1998) on the domestic application of the Covenant.

14. The Committee reiterates its concern that the State party has not yet adopted a national human rights plan of action, as recommended in the Vienna Declaration and Programme of Action of 1993.

The Committee recommends once again that the State party adopt a national human rights plan of action which includes specific programmes

regarding the realization of economic, social, and cultural rights. It also encourages the State party to consult widely with civil society and national human rights institutions in the preparation of the national human rights plan of action.

15. The Committee is concerned about the low level of awareness of economic, social and cultural rights not only among the public at large but also particularly among judges, public officials, police and law enforcement officials, medical practitioners, and other health care-related professionals, despite the State party's assurances to the contrary.

The Committee recommends that the State party take effective measures to increase awareness of economic, social and cultural rights among the public at large as well as among judges, public officials, police and law enforcement officials, medical practitioners, and other health care-related professionals, including by lending adequate support to civil society and national human rights institutions in their efforts in relation to awareness-raising. It also recommends that the State party take steps to improve awareness of the Covenant rights as justiciable human rights and not merely rights as part of the "Welfare State".

16. The Committee continues to be concerned about the de facto discrimination experienced by some of the most disadvantaged and marginalized individuals and groups, such as ethnic minorities and persons with disabilities, in the enjoyment of their economic, social and cultural rights, especially in the fields of housing, employment, and education, despite the measures adopted by the State party to enhance its legal and institutional mechanisms aimed at combating discrimination. The Committee is also concerned that the proposed Equality Bill does not provide protection from all forms of discrimination in all areas related to the Covenant rights and will not apply to Northern Ireland (art. 2).

The Committee recommends that the State party take remedial steps to enforce existing legal prohibitions of discrimination and to enact, without delay, a comprehensive anti-discrimination law, guaranteeing protection against discrimination in the enjoyment of economic, social and cultural rights, as stipulated in article 2, paragraph 2, of the Covenant. It also recommends that the State party consider making such comprehensive anti-discrimination legislation applicable to Northern Ireland.

17. The Committee is concerned about the discriminatory impact of some counter-terrorism measures on the enjoyment of economic, social and cultural rights of certain groups in the State party, in particular ethnic and religious minorities, despite the State party's commitment to adopt policies aimed at promoting integration, equal treatment and diversity.

The Committee recommends that the State party ensure that its counter-terrorism measures do not have a discriminatory effect on the enjoyment of the Covenant rights on certain groups in the State party, in particular ethnic and religious minorities.

18. The Committee is concerned that, despite the efforts undertaken by the State party to achieve gender equality in the workplace, inequalities between men and women persist. In particular, the Committee is concerned that progress towards the eradication of the wage gap between men and women has stalled, especially in the private sector and for persons employed in part-time work. (arts. 3, 6 and 7)

The Committee, in line with its general comment no. 16 (2005) on the equal right of men and women to the enjoyment of all economic, social and cultural rights, recommends that the State party conduct a comprehensive review of its policies to overcome gender inequalities. It also recommends that the State party continue intensifying its efforts to enhance equality between men and women in the workplace, particularly with regard to equal pay for work of equal value in all sectors of employment. The Committee encourages the State party to take into consideration the findings of the inquiry to be conducted by the Equality and Human Rights Commission and to ensure that the Equality Bill contains effective provisions aimed at closing the wage gap in the private sector.

19. The Committee notes with concern that parental and paternity leave are not available to the same extent as maternity leave which negatively impacts on equal rights between men and women. (arts. 3 and 9)

The Committee recommends that the State party introduce a more flexible scheme for paternity and parental leave, taking into consideration the report “Working Better” by the Equality and Human Rights Commission.

20. The Committee, while acknowledging the rate of employment in the State party, is yet concerned about the substantial number of persons unemployed, in particular the most disadvantaged and marginalized individuals and groups.

The Committee recommends that the State party strengthen its measures to reduce the substantial number of unemployed persons and to counteract the impact of the economic downturn on employment in order to implement fully the right to work, in particular with regard to the most disadvantaged and marginalized individuals and groups. It also calls upon the State party to reinforce its measures aimed at ensuring that persons with disabilities, including those with learning disabilities, have equal opportunities for productive and gainful employment, equal pay for work of equal value, and provide them with improved, expanded and equal opportunities to gain the necessary qualifications, in line with its general comment no. 5 (1994) on persons with disabilities.

21. The Committee is concerned that the unemployment rate of some groups, especially ethnic minorities, continues to be higher than that of other workers, and that they continue to be employed in low-paid jobs.

The Committee recommends that the State party take immediate and

appropriate measures to reduce unemployment among ethnic minorities and provide them with better employment opportunities.

22. The Committee is concerned about the unsafe working conditions and low wages of some groups of migrant workers whose employers are registered outside the State party, in particular those employed in the fishing industry who enter the State party on transit visas. (art. 7)

The Committee encourages the State party to ensure that the conditions of work of all migrant workers comply with the provisions of article 7 of the Covenant and calls upon the State party to take all necessary measures to investigate the activities of companies employing migrant workers and ensure that employers contravening the law in this regard are prosecuted and sanctioned.

23. The Committee is concerned that pension entitlements do not provide the most disadvantaged and marginalized individuals and groups, including women, persons with disabilities and ethnic minorities, with an adequate standard of living. (art. 9)

The Committee encourages the State party to ensure that the State pension reform of the Pension Act 2008, which introduces a new private saving scheme to come into effect in 2012, provides sufficient flexibility to enable especially the most disadvantaged and marginalized individuals and groups to benefit from both schemes and to increase their pension entitlements. It encourages the State party to carry out a targeted information campaign about the pension reforms to make people aware of their rights and responsibilities. It also recommends that the State party provide detailed information, in its next periodic report, on the impact of the pension reform, especially on the most disadvantaged and marginalized individuals and groups.

24. The Committee notes with concern that, despite the steps taken by the State party, domestic violence, and in particular violence against women, is still a widespread problem. It also notes with concern that the number of rape cases which are brought to courts is low. It also remains concerned that corporal punishment of children in the home is not yet prohibited by law.

The Committee recommends that the State party reinforce its measures to combat violence against women. It further recommends that the State party intensify its efforts to raise awareness of the gravity of this offence and the mechanisms available to victims of domestic violence, to improve training for police and law enforcement officials and judges in relation to rape cases, and to increase the support services for victims at the local level. The Committee further recommends that the State party take appropriate measures to ensure that complaints of rape are diligently and impartially investigated and prosecuted without any inherent bias or scepticism towards alleged victims. The Committee reiterates its recommendation that physical punishment of children in the home be prohibited by law.

25. The Committee is concerned that the 1967 Abortion Act is not applicable in Northern Ireland.

The Committee calls upon the State party to amend the abortion law of Northern Ireland to bring it in line with the 1967 Abortion Act with a view to preventing clandestine and unsafe abortions in cases of rape, incest or foetal abnormality.

26. The Committee is concerned that the increase of age from 18 to 21 for foreign partners to join their British partners has a discriminatory effect on some groups, in particular ethnic minorities and women. (arts. 10 and 2)

The Committee recommends that the State party allow foreign partners from the age of 18 to join their British partners and consider easing restrictions on family reunification in its Immigration Rules in order to comply with the principle of non-discrimination and ensure the widest possible protection of, and assistance to, the family.

27. The Committee is concerned about the length of waiting time of asylum-seekers before taking up employment until their asylum applications are processed, while noting the introduction of additional voucher support to particularly vulnerable asylum-seekers. It is also concerned at the low level of support and difficult access to health care for rejected asylum-seekers. (arts. 11 and 2)

The Committee encourages the State party to ensure that asylum-seekers are not restricted in their access to the labour market while their claims for asylum are being processed. It also recommends that the State party review section 4 of the Immigration and Asylum Act 1999 on support and provision regulating essential services to rejected asylum-seekers, and undocumented migrants, including the availability of HIV/AIDS treatment, when necessary.

28. The Committee continues to be concerned that poverty and fuel poverty, especially among children, remain widespread in the State party, despite the level of its economic development and the positive steps it has taken. The Committee is also concerned that poverty levels vary considerably between and within regions and cities as well as between different groups of society, with higher poverty levels among ethnic minorities, asylum-seekers and migrants, older persons, single mothers, and persons with disabilities. (art. 11)

The Committee urges the State party to intensify its efforts to combat poverty, fuel poverty, and social exclusion, in particular with regard to the most disadvantaged and marginalized individuals and groups and in the most affected regions and city areas. It also calls upon the State party to develop human rights-based poverty-reduction programmes, taking into consideration the Committee's Statement on Poverty and the International Covenant on Economic, Social and Cultural Rights of 2001 (E/C.12/2001/10). The Committee also encourages the State party to

intensify its efforts aimed at achieving its target of reducing child poverty by half by 2010.

29. The Committee is concerned about the chronic shortage of housing, in particular social housing, for the most disadvantaged and marginalized individuals and groups, such as persons with disabilities, especially in Scotland, or Catholic families in Northern Belfast, in spite of the financial resources provided, and other measures taken, by the State party in this regard. The Committee remains also concerned about the extent of homelessness in the State party. (art. 11)

The Committee calls upon the State party, in line with its general comment no. 4 (1991) on the right to adequate housing, to intensify its efforts to ensure that everyone has access to housing and to review its policies and develop effective strategies, including a gender impact assessment, aimed at increasing the levels of affordable housing, including social housing. The Committee also recommends that the State party take into consideration the Homelessness etc. (Scotland) Act 2003 as best practice, especially its provision relating to the right to housing as an enforceable right.

30. The Committee is concerned about the shortage of adequate stopping sites for Roma/Gypsies and Irish Travellers, and reports concerning evictions of groups of Roma from their sites due to the compulsory purchase order of those sites for the organization of the 2012 Olympic Games in London. It is also concerned about the discriminatory effect of the Unauthorised Encampments (Northern Ireland) Order 2005, which makes Roma/Gypsies and Irish Travellers liable to be evicted from their homes, to have their homes destroyed and then to be imprisoned and/or fined. (art. 11)

The Committee recommends that the State party ensure the provision of sufficient, adequate and secure stopping sites for Roma/Gypsies and Irish Travellers. It also recommends that the State party, in the organization of mega-events, ensure the protection of the most disadvantaged and marginalized individuals and groups, which may be disproportionately affected by such events, in line with the Committee's general comment no. 7 (1997) on the right to adequate housing: forced evictions. It also encourages the State party to review the provisions of the Unauthorised Encampments (Northern Ireland) Order 2005 and to provide for suitable accommodation arrangements for Roma/Gypsies and Irish Travellers.

31. The Committee is concerned about the persistent levels of deprivation and inequality throughout Northern Ireland, despite the adoption of the Northern Ireland Equality Impact Assessment. (art. 11)

The Committee recommends that the human rights framework, including the Equality Impact Assessment, be effectively implemented in Northern Ireland, particularly in the context of urban regeneration programmes by ensuring the participation of the affected populations and the development of adequate policies and targeted measures to promote substantive equality, provide for improved health care, as well as an increase in skills training and employment opportunities for young people

and adequate housing programmes for the poor and, in particular, Catholic families.

32. The Committee is concerned that health inequalities among various social classes in the State party have widened by 4 per cent among men and 11 per cent among women, especially with regard to access to health care, goods, facilities, and services. (arts. 12 and 2)

In line with general comment no. 14 (2000) on the right to the highest attainable standard of health, the Committee recommends that the State party intensify its efforts to overcome the health inequalities and unequal access to health care, in particular for the most disadvantaged and marginalized individuals and groups. It also urges the State party in this regard to fulfil its commitment to reduce health inequalities by 10 per cent by 2010, measured by infant mortality and life expectancy at birth as benchmarks which the State party has set for itself. It also recommends that the State party gather appropriate disaggregated data on an annual basis of the reporting cycle in this respect with a view to assessing the progress made and providing such information to the Committee in its next periodic report.

33. The Committee is deeply concerned that persons with mental disabilities experience significantly poorer health conditions, including the higher probability to suffer from bowel cancer, breast cancer and much shorter life expectancy, than those without mental health problems. (art. 12)

The Committee recommends that the State party take immediate steps to address, as a matter of priority, the poor health conditions for persons with mental disabilities, as well as the regressive measures taken in funding mental health services.

34. The Committee notes with concern that members of the medical profession at all levels are not sufficiently aware of the State party's Covenant obligations. It is also concerned that health-care professionals do not receive sufficient training in relation to the care of persons suffering from dementia and Alzheimer's and that there is a lack of awareness and understanding of the diseases among the public. (art. 12)

The Committee recommends that the State party undertake:

- (a) training programmes for doctors and health-care professionals about the State party's Covenant obligations, as well as with regard to the prevention and treatment of dementia and Alzheimer's diseases;**
- (b) awareness-raising campaigns about these diseases among the public at large.**

35. The Committee is concerned about the increasing suicide rates in Northern Ireland and Scotland, particularly among mental health patients, who face difficulties in accessing the complaints system. (art. 12)

The Committee recommends that the State party intensify its efforts to decrease the number of suicides among mental health patients by dealing with the causes of suicide and strengthening the provision of psychological counselling services, as well as training of health professionals on the causes and symptoms of depression and other mental health problems. It also recommends that the State party take all appropriate measures to ensure access of such patients to the complaints system.

36. The Committee is concerned that significant disparities in terms of school performance and dropout rates continue to exist between pupils belonging to ethnic, religious or national minorities, in particular Roma/Gypsies, Irish Travellers, and other students, in spite of the efforts undertaken by the State party to address the social and economic inequalities existing in the field of education (arts. 13 and 2, para. 2)

The Committee recommends that the State party adopt all appropriate measures to reduce the achievement gap in terms of school performance between British pupils and pupils belonging to ethnic, religious or national minorities in the field of education, inter alia, by ensuring the adequate provision of English-language courses for those students who lack adequate language proficiency and avoiding the overrepresentation of minority students in classes for children with learning difficulties. The Committee further recommends that the State party undertake further studies on the correlation between school failure and social environment, with a view to elaborating effective strategies aimed at reducing the disproportionate dropout rates affecting minority pupils.

37. The Committee is concerned that there is still no protection in respect of the Irish language in Northern Ireland, whereas the Welsh and the Gaelic languages are protected by the Welsh Language Act 1993 and the Gaelic Language (Scotland) Act 2005, respectively. (arts. 15 and 2)

The Committee recommends that the State party, or the devolved administration in Northern Ireland, adopt an Irish Language Act, with a view to preserving and promoting minority languages and cultural heritage, and invites the State party to provide detailed information on the progress made in its next periodic report.

38. The Committee recommends that the State party place sufficient emphasis on the inclusion of enforceable economic, social and cultural rights when drawing conclusions from the consultations on a possible Bill of Rights and Responsibilities.

39. The Committee encourages the State party to consider signing and ratifying the Optional Protocol to the Covenant.

40. The Committee recommends that the State party give serious consideration to withdrawing its reservations to articles 1, 2, 6, 7, 9 and 10 of the Covenant, especially those that have become obsolete.

41. The Committee recommends that the State party consider giving workers from 18 to 20 years of age the same minimum wage which is given to those beyond the age of 21.

42. The Committee requests data, in the State party's next periodic report, on the effects of the Welfare Reform agenda that are disaggregated on an annual basis, according to the prohibited grounds of discrimination.

43. The Committee encourages the State party to extend its international and regional commitments in the area of social security to the existing advanced instruments and, in this connection, recommends that the State party consider ratifying ILO Convention no. 118 on Equality of Treatment (Social Security) and the European Social Charter (Revised). It also recommends that the State party commit itself fully to all the provisions of ILO Convention no. 102 on Social Security (Minimum Standards) ratified by the State party and, for that purpose, consider withdrawing its reservations to Parts 6, 8 and 9 of the Convention.

44. In line with general comment no. 13 (1999) on the right to education, the Committee encourages the State party to review its policy on tuition fees for tertiary education with a view to implementing article 13 of the Covenant, which provides for the progressive introduction of free education at all levels. It also recommends that the State party eliminate the unequal treatment between European Union member State nationals and nationals of other States regarding the reduction of university fees and the allocation of financial assistance.

45. The Committee requests the State party to disseminate the present concluding observations widely among all levels of society, in particular among State officials, the judiciary and civil society organizations, to translate and publicize them as far as possible in the languages of the United Kingdom, and to inform the Committee on the steps taken to implement them in its next periodic report. It also encourages the State party to continue engaging national human rights institutions, non-governmental organizations and other members of civil society in the process of discussion at the national level prior to the submission of its next periodic report.

46. The Committee encourages the State party to consider ratifying the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.

47. The Committee invites the State party to update its core document in accordance with the requirements of the Common Core Document in the Harmonized Guidelines on Reporting, recently approved by the international human rights treaty bodies.

48. The Committee requests the State party to submit its sixth periodic report, prepared in accordance with the revised reporting guidelines of the Committee, adopted in 2008 (E/C.12/2008/2), by 30 June 2014.