

**UNITED NATIONS INTERNATIONAL COVENANT ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS
(ICESCR): CONCLUDING OBSERVATIONS OF
THE COMMITTEE ON ECONOMIC, SOCIAL
AND CULTURAL RIGHTS**

**Presented to the States on 24th September 2002
by the Policy and Resources Committee**



STATES OF JERSEY

STATES GREFFE

120

2002

R.C. 34

Price code: B

Report

Through the United Kingdom, Jersey is a party to the International Covenant on Economic, Social and Cultural Rights (ICESCR). The United Kingdom ratified the Covenant on the 20th May 1976, and on the 3rd August 1976 the Covenant came into force. At that time, the Covenant was extended to Jersey. In accordance with principles proclaimed in the Charter of the United Nations, and in accordance with the Universal Declaration of Human Rights, the Covenant seeks to guarantee that all human beings enjoy economic, social and cultural rights. This covenant is a “sister” covenant to the International Covenant on Civil and Political Rights.

Under Articles 16 and 17 of the Covenant, States parties must submit reports every five years on the measures they have adopted which give effect to the rights recognised in the covenant and on the progress made in the enjoyment of those rights. Jersey submitted its report to the United Kingdom in January 2000, which was later included in the United Kingdom’s own report and submitted to the offices of the United Nations High Commissioner for Human Rights (UNHCHR) for consideration. The reports are subsequently examined by the United Nations committee with specific responsibility for the ICESCR in public meetings, through a dialogue with representatives of each State party whose report is under consideration. The United Kingdom representatives have routinely appeared before the committee to answer questions about both the United Kingdom and its dependent territories. On the 6th and 7th May 2002, the United Kingdom, as the State Party was examined, and the Crown Dependencies and Overseas Territories were also invited to join the United Kingdom delegation. Although the primary purpose of the Geneva hearing was an examination of the United Kingdom, there were a few specific areas in which the territories were questioned individually (e.g. discrimination and minority inclusion issues, health access, “reasonable chastisement”, minimum wage and sick pay). The Island was represented at the oral hearing by Nisha Bismillah, International Relations and Policy Officer, Policy and Resources Department. The examination was conducted over the two days, in three, three-hour sessions.

Attached to this report is a copy of the official UNHCHR Committee Report of this examination.

The report of the United Nations Committee is divided into five sections: an introduction, which welcomed the United Kingdom as the State party and in particular the inclusion of representatives of the Crown Dependencies and some of the Overseas Territories; positive aspects; factors and difficulties impeding the implementation of the Covenant; principle subjects of concern; and suggestions and recommendations.

It must be emphasised that, given that the oral hearing was to examine the United Kingdom in the first instance, there are no comments in these recommendations directed specifically to the Crown Dependencies or Overseas Territories. However, whilst the recommendations do refer to the State party, the United Kingdom as the signatory for the Island is ultimately responsible for the implementation of the Covenant, and for this reason, the recommendations should be heeded by the Island, and where able given due regard and implemented.

Given that Jersey is a small island where resource implications for legislation and in policy making are scarce, it is recognised and generally accepted not all recommendations can be taken on board, nor are they always relevant. Many of the general comments that were made however, Jersey has already taken in hand, including: looking at broader human rights training and public knowledge of this Covenant and other international human right treaties that have been ratified on the Island’s behalf; implementing measures to tackle discrimination, including the recent States’ decision to draft racial discrimination legislation; and the ongoing work of the Human Rights Working Group which continues to publish human rights literature both in paper form and on its website, as well as training for a majority of civil servants and States Members.

**Concluding Observations of the Committee on Economic, Social and Cultural Rights: United Kingdom of Great Britain and Northern Ireland, United Kingdom of Great Britain and Northern Ireland - Dependant Territories.
17/05/2002.**

E/C.12/1/Add.79. (Concluding Observations/Comments)

Convention Abbreviation: CESCR

COMMITTEE ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS
28th session
29 April - 17 May 2002

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 fourth periodic reports 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.12/4/Add.5, 7 and 8) at its 11th, 12th and 13th meetings, held on 6 and 7 May 2002 (E/C.12/2002/SR.11, 12 and 13), and adopted, at its 25th meeting held on 16 May 2002, the following concluding observations.

A. INTRODUCTION

2. The Committee welcomes the fourth periodic reports of the State party, which were prepared in general conformity with the Committee's guidelines.
3. The Committee notes with appreciation the comprehensive written replies given by the State party, as well as the inclusion of representatives of some of the Crown Dependencies and Overseas Dependent Territories in the delegation (Guernsey, Jersey, the Isle of Man, the British Virgin Islands, Cayman Islands, Bermuda and Montserrat) in the delegation. The Committee welcomes the constructive dialogue with the delegation of the State party, which consisted of government officials with relevant expertise on the provisions of the Covenant. The Committee regrets, however, that in the course of the dialogue, the delegation did not provide more cogent replies to some of the questions posed by members of the Committee.

B. POSITIVE ASPECTS

4. The Committee expresses appreciation for the enactment of the Human Rights Act (1998).
5. The Committee commends the establishment of the Northern Ireland Human Rights Commission under the Northern Ireland Act (1998).
6. The Committee also commends the measures undertaken by the State party since the consideration of its third periodic report, such as the New Deal programme for employment, the introduction of a national minimum wage in 1999 and measures taken to reduce homelessness, rough sleeping and permanent exclusions from schools.
7. The Committee notes with appreciation that the State party has adopted the Care Standards Act (2000), establishing a National Care Standards Commission for England, and a Care Standards Inspectorate for Wales, setting national minimum standards for the independent health sector to reflect those in the National Health Service.
8. The Committee welcomes the adoption of new cell standards in prisons, which have led to the reduction of overcrowding in cells by 50%, and the elaboration and provision of numerous educational activities for prisoners.
9. The Committee also welcomes the delegation's statement that the State party is currently in the process of

reviewing its reservations of international human rights instruments, with a view to withdrawing those that have been superseded by legislation or practice.

C. FACTORS AND DIFFICULTIES IMPEDING THE IMPLEMENTATION OF THE COVENANT

10. In the light of information submitted to it by the State party, the Committee does not find any factors or particular difficulties that impede the full implementation of the Covenant in the U.K. In the Overseas Dependent Territories, the limited population and the lack of resources can be considered as factors impeding the enjoyment of economic, social and cultural rights.

D. PRINCIPAL SUBJECTS OF CONCERN

11. The Committee deeply regrets that, although the State party has adopted a certain number of laws in the area of economic, social and cultural rights, the Covenant has still not been incorporated in the domestic legal order and that there is no intention by the State party to do so in the near future. The Committee reiterates its concern about the State party's position that the provisions of the Covenant, with minor exceptions, constitute principles and programmatic objectives rather than legal obligations that are justiciable, and that consequently they cannot be given direct legislative effect (paragraph 10 of the Committee's concluding observations of December 1997, E/C.12/1/Add.19).
12. The Committee regrets that the State party has not yet prepared a national human rights plan of action as recommended in paragraph 71 of the 1993 Vienna Declaration and Programme of Action, and is deeply concerned about the delegation's statement of having no intention of doing so.
13. The Committee is concerned that human rights education provided in the State party to school children, the judiciary, prosecutors, government officials, civil servants and other actors responsible for the implementation of the Covenant does not give adequate attention to economic, social and cultural rights.
14. The Committee is concerned about the persistence of de facto discrimination in relation to some marginalized and vulnerable groups in society, especially ethnic minorities and persons with disabilities, in various fields including employment, housing and education. The Committee regrets the unwillingness of the State party to adopt comprehensive legislation on equality and protection from discrimination, in accordance with articles 2(2) and 3 of the Covenant.
15. The Committee is concerned that the national minimum wage is not set at a level that provides all workers with an adequate standard of living in accordance with articles 7(a)(ii) and 11 of the Covenant. The Committee is further concerned that the minimum wage protection does not extend to workers under 18 years of age. The Committee also considers that the minimum wage scheme is discriminatory on the basis of age, as it affords a smaller proportion of the minimum wage to persons between 18 and 22 years of age.
16. The Committee reiterates its concern that the failure to incorporate the right to strike into domestic law constitutes a breach of Article 8 of the Covenant (paragraph 11 of the Committee's 1997 concluding observations).
17. The Committee is deeply concerned that the incidence of domestic violence has increased in recent years.
18. The Committee reiterates its concern about the persistence of considerable levels of poverty, especially in certain parts of the country, such as Northern Ireland, and among certain sections of the population, such as ethnic minorities, persons with disabilities and older persons. Moreover, despite measures taken by the State party to combat poverty and social exclusion, the gap between the rich and poor in the State party has increased, according to information provided by the State party. The Committee also notes with particular concern the high levels of child poverty among certain groups of society in the State party.
19. The Committee is concerned at the persistence of homelessness, particularly among certain groups of society such as ethnic minorities. The Committee is further concerned that a large number of the homeless are alcoholics or suffer from mental illnesses.
20. The Committee notes with concern that poor quality housing and "fuel poverty" continue to be a problem for a large number of families and individuals.
21. The Committee is concerned about the high incidence of HIV/AIDS in some of the State party's Caribbean territories. It is particularly concerned about the number of HIV/AIDS cases in the Turks and Caicos Islands and St.

Vincent and the Grenadines, and the lack of availability of, and access to, anti-retroviral medication for migrant workers and AIDS orphans.

22. The Committee notes with concern that the introduction of tuition fees and student loans, which is inconsistent with Article 13(2)(c) of the Covenant, has tended to worsen the position of students from less privileged backgrounds, who are already underrepresented in tertiary education.
23. The Committee reiterates its concern expressed in paragraph 18 of its 1997 concluding observations that the educational structure in Northern Ireland continues to be heavily segregated on the basis of religion despite the increased demand for integrated schools.

E. SUGGESTIONS AND RECOMMENDATIONS

24. Affirming the principle of the interdependence and indivisibility of all human rights, and that all economic, social and cultural rights are justiciable, the Committee reiterates its previous recommendation (paragraph 21 of its 1997 concluding observations) and strongly recommends that the State party re-examine the matter of incorporation of the International Covenant on Economic, Social and Cultural Rights into domestic law. The Committee points out 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 an obligation to comply with it and to give it full effect in the domestic legal order. In this respect, the Committee draws the attention of the State party to its General Comment No. 9 on the domestic application of the Covenant.
25. The Committee further recommends, recalling its previous recommendation (paragraph 33 of its 1997 concluding observations), that the State party review and strengthen its institutional arrangements, within the government administration, which are designed to ensure that its obligations under the Covenant are taken into account, at an early stage, in the Government's formulation of national legislation and policy on issues such as poverty reduction, social welfare, housing, health and education. Given that its General Comments are based upon experience gained over many years, including the examination of numerous States parties' reports, the Committee urges the State party to give careful consideration to its General Comments and Statements when formulating policies that bear upon economic, social and cultural rights.
26. The Committee encourages the State party, as a member of international financial institutions, in particular the International Monetary Fund and the World Bank, to do all it can to ensure that the policies and decisions of those organizations are in conformity with the obligations of States parties to the Covenant, in particular with the obligations contained in articles 2(1), 11(2), 15(4), and 23 concerning international assistance and cooperation.
27. The Committee urges the State party to prepare, as soon as possible, a national human rights plan of action in accordance with paragraph 71 of the 1993 Vienna Declaration and Programme of Action.
28. The Committee strongly recommends that the State party establish a national human rights commission for England, Wales and Scotland, with a mandate to promote and protect all human rights, including economic, social and cultural rights.
29. The Committee strongly recommends the inclusion of effective protection for economic, social and cultural rights, consistent with the provisions of the Covenant, in any Bill of Rights enacted for Northern Ireland.
30. The Committee urges the State party to ensure that the human rights education curricula and training programmes for school children, the judiciary, prosecutors, government officials, civil servants and other actors responsible for the implementation of the Covenant gives adequate attention to economic, social and cultural rights.
31. The Committee urges the State party to take more effective steps to combat de facto discrimination, in particular against ethnic minorities and people with disabilities, especially in relation to employment, housing and education. The Committee strongly recommends that the State party enact comprehensive legislation on equality and non-discrimination in U.K. law, in conformity with articles 2(2) and 3 of the Covenant.
32. The Committee requests that specific information be included, in the next periodic report, on the measures and programmes relevant to the Covenant undertaken by the State party to follow up on the Declaration and Programme of Action adopted at the 2001 World Conference Against Racism, Racial Discrimination, Xenophobia and Related Intolerance.
33. The Committee urges the State party to ensure that the level of the national minimum wage is determined with due

regard to the requirements of an adequate standard of living. Moreover, the Committee recommends that the minimum wage protection is extended to those workers under 18 years of age, and that the scheme is applied in a non-discriminatory manner to persons between 18 and 22 years of age.

34. The Committee reiterates its previous recommendations (paragraph 23 of the Committee's 1997 concluding observations) that the right to strike be incorporated in legislation and that strike action no longer entail the loss of employment.

35. The Committee recommends that the State party continue its efforts to combat domestic violence, and in particular to ensure that there are sufficient refuge places to meet the needs of victims of domestic violence. The Committee requests that the State party provide information in its next periodic report on the further measures taken by the State party, as well as on the results and effectiveness of such measures, in relation to domestic violence.

36. Given the principle of the dignity of the individual that provides the foundation for international human rights law (see paragraph 41 of the Committee's General Comment No. 13) and in light of article 10(1) and (3) of the Covenant, the Committee recommends that the physical punishment of children in families be prohibited, in line with the recommendation of the Committee on the Rights of the Child (CRC) (paragraph 31 of the CRC's 1995 concluding observations, CRC/C/15/Add.34).

37. The Committee urges the State party continue to address the problem of poverty and social exclusion as a matter of high priority, with special focus on the needs of marginalized and vulnerable groups, and particular regions, such as Northern Ireland. When formulating its anti-poverty policies and programmes, the State party is urged to give the most careful attention to the Committee's statement on poverty and the Covenant (E/C.12/2001/10).

38. The Committee recommends that the State party focus its efforts of combating homelessness on those groups in society who are disproportionately affected, such as ethnic minorities. The Committee further recommends that the State party take the necessary measures to ensure that homeless persons suffering from serious health problems receive adequate health care.

39. The Committee recommends that the State party take immediate measures to improve the situation of the large number of families and individuals who live in poor housing conditions and to relieve the situation of those who are "fuel poor".

40. In the context of HIV/AIDS, the Committee urges the State party to ensure the availability of, and equal access to, anti-retroviral medication by all individuals in Overseas Dependent Territories.

41. The Committee urges the State party to take effective measures to ensure that the introduction of tuition fees and student loans does not impact negatively upon students from less privileged backgrounds, in accordance with paragraphs 14, 20 and 45 of the Committee's General Comment No. 13 on the right to education. The Committee requests the State party to provide, in its next periodic report, detailed information on the impact of tuition fees and student loans on lower socio-economic groups.

42. The Committee reiterates its recommendation in paragraph 29 of its 1997 concluding observations that the State party consider appropriate measures in Northern Ireland to facilitate the establishment of additional integrated schools in areas where a significant number of parents have indicated their desire to have their children enrolled in such schools.

43. The Committee encourages the State party to withdraw from reservations made to the Covenant that have become redundant.

44. The Committee requests the State party to disseminate the present concluding observations widely at all levels of society, in particular among State officials and the judiciary, and to inform the Committee on all steps taken to implement them in its next periodic report. It also encourages the State party to involve non-governmental organizations and other members of civil society in the preparation of its fifth periodic report.

45. Finally, the Committee requests the State party to submit its fifth periodic report by 30 June, 2007, and to include in this report detailed information on the steps it has undertaken to implement its recommendations contained in the present concluding observations.